NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 1038 of 2026

[Arising out of the Impugned Order dated 12.05.2026 passed by the 'Adjudicating Authority' (National Company Law Tribunal, Division Bench – I, Kolkata) in I.A. (IB) No. 1025/KB/2025 in Company Petition (IB) No. 13/KB/2024]

IN THE MATTER OF:

Pashupati Corporation
Successful Bidder of Gouri Iron &
Steel Private Limited
11, Shri Krishna Centre, Mandir Road
Mithakhali, Ahmedabad – 380 009 **...Appellant**

Versus

1. **Mr. Rakesh Dugar**
   Resolution Professional of Chaitanya Alloys Private Limited
   11 C, Ram Mohan Dutta Road
   Kolkata – 700 020 **... Respondent No.1**

2. **Mr. Uttam Tekriwal**
   Liquidator of Gouri Iron & Steel Private Limited
   35, Dhakuria Station Road,
   Kolkata – 700 031 **... Respondent No.2**

Present:

For Appellant : Mr. Dheeraj Garg, Advocate

For Respondents : Mr. Abhiraj Choudhary, Ms. Akansha Mehra & Ms. Nancy Singh, Advocates for RP.

Mr. Palash Agarwal & Mr. Harshit Agarwal, Advocates for R-2

With
Company Appeal (AT) (Insolvency) No. 1039 of 2026

IN THE MATTER OF:

1. **Gouri Iron & Steel Private Limited**
   11, Shri Krishna Centre, Mandir Road,
   Mithakhali, Ahmedabad – 380009 **...Appellant No.1**

2. **M/s Pashupati Corporation**
   11, Shri Krishna Centre, Mandir Road,
   Mithakhali, Ahmedabad – 380009 **...Appellant No.2**

Versus

1. **Mr. Rakesh Dugar**
   Resolution Professional of Chaitanya Alloys Private Limited
   11 C, Ram Mohan Dutta Road
   Kolkata – 700 020 **... Respondent No.1**

2. **Mr. Uttam Tekriwal**
   Liquidator of Gouri Iron & Steel Private Limited
   35, Dhakuria Station Road,
   Kolkata – 700 031 **... Respondent No.2**

Present:

For Appellants : Mr. Dheeraj Garg, Advocate

For Respondents : Mr. Abhiraj Choudhary, Ms. Akansha Mehra & Ms. Nancy Singh, Advocates for RP.

Mr. Palash Agarwal & Mr. Harshit Agarwal, Advocates for R-2.

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

[Per: Arun Baroka, Member (Technical)]

Introduction

These two appeals arise out of a common order dated 12.05.2026 passed by the National Company Law Tribunal, Kolkata Bench (hereinafter referred to as the 'Adjudicating Authority'), in I.A. (IB) No. 1025/KB/2025 and I.A. (IB) No. 1411/KB/2025 in C.P. (IB) No. 13/KB/2024. Since both appeals

arise out of the same set of facts and raise interconnected questions concerning the representation of Gouri Iron & Steel Private Limited in the Committee of Creditors (CoC) of Chaitanya Alloys Private Limited, they are being taken up together and disposed of by this common judgment.

2. The principal issue concerns the effect of the sale of Gouri Iron & Steel Private Limited (hereinafter referred to as 'Gouri') as a going concern in its liquidation proceedings, particularly in relation to the rights of the successful auction purchaser, M/s Pashupati Corporation, to represent Gouri and exercise its voting rights, constituting approximately 96.97% of the voting share in the CoC of Chaitanya Alloys Private Limited (hereinafter referred to as 'Chaitanya').

3. The Appellants are aggrieved by the directions issued by the Adjudicating Authority restraining Pashupati Corporation from participating in or voting at the CoC meetings of Chaitanya and permitting the Liquidator of Gouri to continue representing Gouri in those meetings. The application filed by Pashupati Corporation seeking recognition of its voting rights was consequently disposed of as infructuous.

Brief facts

4. Gouri was admitted into Corporate Insolvency Resolution Process (CIRP) by the Adjudicating Authority on 25.11.2021. Upon failure of the resolution process, liquidation was ordered on 24.11.2022 and Respondent No. 2, Mr. Uttam Tekriwal, was appointed as its Liquidator.

5. Gouri was an Operational Creditor of Chaitanya. On 02.08.2024, the CIRP of Chaitanya commenced upon admission of a petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') by the Liquidator of Gouri. In the absence of any claim by a Financial Creditor, Gouri held approximately 96.97% voting rights in the CoC of Chaitanya.

6. During the pendency of the CIRP of Chaitanya, the Liquidator of Gouri initiated steps for the sale of Gouri as a going concern. An e-auction process document dated 21.09.2024 was issued under the applicable provisions of the Code and the IBBI (Liquidation Process) Regulations, 2016. The receivables of Gouri from Chaitanya, stated to be approximately ₹ 200.59 crore, were also disclosed as part of the assets forming the subject matter of the going concern sale.

7. In the e-auction conducted on 25.10.2024, M/s Pashupati Corporation emerged as the successful bidder. A Letter of Intent dated 26.10.2024 was issued in its favour. Upon payment of the sale consideration of ₹ 23,25,000/-, the Liquidator issued a Sale Certificate dated 10.01.2025 certifying the sale of Gouri as a going concern.

8. The Sale Certificate, inter alia, recorded the handing over of possession, control and custody of the assets and affairs of Gouri to the successful auction purchaser and referred to the rights, title and interests attached to the Corporate Debtor.

9. In the meantime, the CIRP of Chaitanya continued. The fourth CoC meeting was held on 03.02.2025, in which the Liquidator of Gouri participated. On 04.02.2025, the Resolution Professional of Chaitanya, Respondent No. 1, was informed about the sale of Gouri and also communicated with Pashupati Corporation. Notices of the fifth CoC meeting were thereafter forwarded to both the Liquidator and the successful auction purchaser.

10. The fifth CoC meeting was held on 05.03.2025. The Liquidator of Gouri participated in the meeting, whereas Pashupati Corporation did not participate. Two resolution plans submitted by prospective resolution applicants were considered. The plans received conditional approval, subject to certain conditions recorded in item A.3 of the minutes. It was specifically recorded that the approval was conditional in view of the Sale Certificate issued in favour of Pashupati Corporation.

11. On 10.03.2025, Pashupati Corporation requested the Resolution Professional to defer the voting process and reconstitute the CoC in view of the sale of Gouri. On 11.03.2025, the Resolution Professional filed I.A. (IBC)(PLAN)/8/KB/2025 seeking approval of the resolution plan. Thereafter, on 21.03.2025, Pashupati Corporation paid an amount of ₹ 8,50,000/- towards CIRP costs of Chaitanya.

12. The sixth CoC meeting was held on 03.04.2025. Both the Liquidator and the representative of Pashupati Corporation participated. The

communication received from Pashupati Corporation was discussed. Its representative raised the issue of withdrawal of the application seeking approval of the resolution plan and reconstitution of the CoC, besides suggesting issuance of a fresh Form G.

13. During the discussion, the successful resolution applicant questioned the legal basis for such a course of action. The Resolution Professional also sought documents establishing the authority under which the Liquidator and the representative of Pashupati Corporation were participating. Ultimately, it was decided to obtain a legal opinion concerning withdrawal of the resolution plan application and republication of Form G.

14. On 11.06.2025, Respondent No. 1 filed I.A. (IB) No. 1025/KB/2025, raising questions concerning the Sale Certificate issued in favour of Pashupati Corporation, including certain discrepancies relating to the dates mentioned therein.

15. Thereafter, on 10.07.2025, Pashupati Corporation filed I.A. (IB) No. 1411/KB/2025 seeking recognition of its rights to represent Gouri and exercise the voting rights attached to its approximately 96.97% voting share in the CoC of Chaitanya.

16. It is also relevant to notice that, by an order dated 12.08.2025 passed in the separate liquidation proceedings of Gouri, the Adjudicating Authority allowed an application filed by Pashupati Corporation seeking reliefs arising out of the sale of Gouri as a going concern. The rights of Pashupati

Corporation in respect of recovery of the receivables of Gouri were recognised and the Liquidator was directed to assist in the smooth transfer of the sale.

17. By the impugned common order dated 12.05.2026, the Adjudicating Authority held that issuance of the Sale Certificate by itself did not complete the transfer of ownership of Gouri. It held that extinguishment of the existing share capital and issuance of fresh shares in favour of the successful auction purchaser were necessary before ownership and control could lawfully vest in Pashupati Corporation.

18. On the basis of the aforesaid reasoning, the Adjudicating Authority directed that Pashupati Corporation shall not participate in, attend or vote at the CoC meetings of Chaitanya and that the Liquidator of Gouri shall continue to represent Gouri in the CoC. Consequently, the application filed by Pashupati Corporation seeking recognition of its voting rights was disposed of as infructuous.

19. Aggrieved by the aforesaid order, the Appellants have preferred the present connected appeals.

Submissions of the Appellants

20. Learned counsel appearing for the Appellants submits that the Adjudicating Authority failed to appreciate the legal consequences flowing from the sale of Gouri as a going concern. It is submitted that the auction was conducted under Regulations 32(e) and 32A of the Liquidation Process Regulations, 2016, and that upon receipt of the entire sale consideration, the Liquidator issued the Sale Certificate dated 10.01.2025.

21. It is contended that the Sale Certificate specifically records transfer of possession, custody, control and the rights and interests attached to Gouri. The Appellants submit that the sale having been completed, Pashupati Corporation became entitled to exercise the commercial and voting rights attached to Gouri, including the right to represent it in the CoC of Chaitanya.

22. It is further submitted that the receivables of Gouri from Chaitanya constituted a substantial asset forming part of the going concern sale. Consequently, the right to represent Gouri in the proceedings of Chaitanya was an important commercial right which could not have been retained by the Liquidator after completion of the sale.

23. Learned counsel submits that Respondent No. 1 was duly informed about the issuance of the Sale Certificate. Notices of the fifth CoC meeting were also communicated to the Appellants. However, the Liquidator continued participating and exercising voting rights in the CoC, while Pashupati Corporation was not recognised as the successful auction purchaser.

24. It is further submitted that on 10.03.2025, Pashupati Corporation specifically requested deferment of the voting process and reconstitution of the CoC. However, the Resolution Professional proceeded to file I.A. (IBC)(PLAN)/8/KB/2025 on 11.03.2025 seeking approval of the resolution plan.

25. The Appellants also rely upon the payment of ₹ 8,50,000/- towards CIRP costs on 21.03.2025. It is submitted that Respondent No. 1 accepted the

contribution and subsequently addressed several communications to Pashupati Corporation seeking further payments towards CIRP costs. Having accepted the Appellants as persons responsible for meeting the CIRP expenses arising from the position previously occupied by Gouri, Respondent No. 1 could not simultaneously deny the corresponding rights attached to that position.

26. Learned counsel further draws attention to the statement made on behalf of Respondent No. 1 before the Adjudicating Authority on 24.04.2025, wherein it was stated that the CoC required reconstitution in view of the sale of Gouri and that the resolution plan might have to be reconsidered by a freshly constituted CoC. It is submitted that the subsequent filing of an application challenging the Sale Certificate was contrary to the aforesaid stand and attracted the principles of estoppel and approbate and reprobate.

27. Another substantial objection raised by the Appellants is that Respondent No. 1, being the Resolution Professional appointed in the CIRP of Chaitanya, had no locus to challenge the Sale Certificate issued by the Liquidator in the independent liquidation proceedings of Gouri. It is submitted that the two proceedings are separate and independent and that a Resolution Professional appointed in one proceeding cannot assume supervisory jurisdiction over the acts of a Liquidator in another proceeding.

28. It is also contended that Pashupati Corporation was not impleaded as a necessary party in the application filed by Respondent No. 1, even though

the application directly questioned the Sale Certificate issued in its favour. The challenge to the Sale Certificate, therefore, could not have been adjudicated behind the back of the successful auction purchaser.

29. Learned counsel further submits that the Adjudicating Authority travelled beyond the pleadings and prayers in I.A. (IB) No. 1025/KB/2025 by introducing the issue of extinguishment of existing share capital and issuance of fresh shares as a condition precedent to completion of the sale. Such a direction, it is submitted, was neither founded upon the specific relief sought in the application nor upon an independent adjudication of the application filed by Pashupati Corporation.

30. Reliance has also been placed upon the order dated 12.08.2025 passed in I.A. (IB) No. 344/KB/2025, whereby the rights of Pashupati Corporation concerning the receivables of Gouri were recognised and the Liquidator was directed to assist in the smooth transfer of the sale.

31. On these grounds, the Appellants seek the setting aside of the impugned order, recognition of their right to exercise the 96.97% voting rights in the CoC with effect from 10.01.2025, and a declaration that the decisions taken in the CoC meetings without their participation are bad in law. They also seek replacement of Respondent No. 1 with an independent Resolution Professional, remand of the resolution plan to a reconstituted CoC comprising the new Board of Directors of Gouri and exclusion of the time consumed in the present litigation from the CIRP period.

Submissions of Respondent No. 1 – Resolution Professional

32. Per contra, learned counsel appearing for Respondent No. 1 opposes the appeals and submits that the entire case of the Appellants proceeds on an erroneous assumption that issuance of a Sale Certificate in respect of a corporate debtor sold as a going concern automatically transfers its ownership, management, statutory rights and corporate control to the successful auction purchaser.

33. It is submitted that a going concern sale is fundamentally different from the sale of individual assets. In the former, the subject matter is the corporate debtor as a juristic person, with its corporate identity, statutory registrations, contractual relationships, rights and liabilities. Consequently, the transfer of ownership cannot be treated as complete merely upon payment of consideration or issuance of a Sale Certificate.

34. Learned counsel submits that the E-Auction Process Document expressly contemplated further corporate actions, including extinguishment of the existing equity share capital and issuance of fresh equity shares in favour of the successful bidder. These were not mere procedural formalities but conditions governing completion of the transfer.

35. It is further submitted that the fresh shares were required to be issued in favour of the successful bidder or its nominees, subject to their eligibility under Section 29A of the Code. Until such requirements were fulfilled, ownership and control of Gouri could not legally vest in Pashupati Corporation.

36. Respondent No. 1 also relies upon the fact that the existing share capital of Gouri had not been extinguished and fresh shares had not been issued in favour of Pashupati Corporation. It is submitted that the Appellants failed to produce any document evidencing completion of the requisite corporate actions or a separate assignment of the receivables of Gouri from Chaitanya.

37. It is further submitted that the Sale Certificate itself contained discrepancies, including references to different dates, and the copy relied upon by the Appellants was not received by the Resolution Professional until 17.03.2025. The document also did not bear the acknowledgement or signature of the auction purchaser. In these circumstances, the Resolution Professional could not have unilaterally altered the constitution of the CoC on the basis of a disputed document.

38. With respect to participation in the fifth CoC meeting, Respondent No. 1 submits that notice was forwarded to Pashupati Corporation and the revised timing was also communicated. Despite receiving the notice, the Appellants chose not to participate, whereas the Liquidator attended and exercised the voting rights of Gouri. The minutes of the meeting were also forwarded to the Appellants.

39. It is further submitted that the Liquidator continued to participate in the CoC meetings even after issuance of the Sale Certificate. Respondent No.1 contends that such conduct was consistent with the understanding that the

transfer had not attained legal finality and that the Liquidator continued to be the lawful representative of Gouri.

40. Respondent No. 1 disputes the contention that acceptance of ₹8,50,000/- towards CIRP costs amounted to recognition of the Appellants as the lawful representatives of Gouri. It is submitted that communications seeking payment of CIRP costs were administrative steps taken for the smooth continuation of the CIRP and could not confer any ownership or voting rights which had not otherwise vested in law.

41. It is also submitted that the Appellants themselves did not obtain any declaration or interim order recognising their rights before the CoC meetings were held. Having permitted the CIRP to proceed and having failed to participate in the fifth CoC meeting despite notice, they cannot subsequently seek to invalidate all actions taken in the process.

42. Learned counsel further submits that the Resolution Professional had no adjudicatory authority to determine disputed questions concerning ownership and control of Gouri. Faced with rival claims, the Resolution Professional was justified in maintaining the existing arrangement until determination by the competent forum.

43. Reliance has been placed upon the decisions in ***Dharmendra Kumar Bhasin (Liquidator) v. Bombay Stock Exchange & Ors.***, ***Shree Bhawani Paper Mills Ltd.***, ***Sterling Biotech Ltd.***, ***Topworth Pipes & Tubes Pvt. Ltd.***, ***Shamken Spinners Ltd.*** **and** ***Chadalavada Infratech Ltd.***, in support

of the proposition that extinguishment of the existing share capital and issuance of fresh shares are necessary for completion of a going concern sale.

44. Respondent No. 1 has also relied upon the decisions in *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta* and *Embassy Property Developments Pvt. Ltd. v. State of Karnataka* in support of its submissions concerning statutory eligibility and the limits of the jurisdiction of insolvency professionals.

45. Lastly, reliance has been placed upon the decision of this Tribunal in ***Mehar Bhoomi Bhawan Pvt. Ltd. v. Shashi Bhusan Prasad*, Company Appeal (AT) (Insolvency) No. 1876 of 2025,** dated 22.12.2025, to contend that once a resolution plan has been approved by the CoC and filed before the Adjudicating Authority, neither a reconstituted CoC nor the Resolution Professional can withdraw or recall such approval without statutory authority.

46. On the aforesaid grounds, Respondent No. 1 submits that the impugned order is legally sustainable and the appeals deserve dismissal with costs.

Submissions of Respondent No. 2 – Liquidator of Gouri

47. Respondent No. 2, the Liquidator of Gouri, has filed a separate reply. At the outset, he submits that he is a statutory functionary appointed under Section 34 of the Code and has no personal or commercial interest in the controversy between the Appellants and Respondent No. 1. He accordingly neither supports nor opposes the reliefs sought in the appeals and leaves the matter to be decided on its merits.

48. The Liquidator submits that Gouri was ordered to be liquidated on 24.11.2022 and a Stakeholders' Consultation Committee was constituted under Regulation 31A of the Liquidation Process Regulations. The material decisions concerning the liquidation, including the mode and terms of sale, were taken in consultation with the said Committee.

49. It is submitted that the e-auction process document dated 21.09.2024 was issued for the sale of Gouri as a going concern under Section 35(1)(f) of the Code read with Regulations 32(e) and 32A of the Liquidation Process Regulations. The receivables from Chaitanya amounting to approximately ₹ 200.59 crore were specifically included in the assets disclosed for the sale.

50. Three bidders qualified for the e-auction conducted on 25.10.2024, and Pashupati Corporation emerged as the highest bidder for the relevant block at ₹ 23,25,000/-. The Letter of Intent dated 26.10.2024 was issued and accepted. The auction outcome, the e-auction report and the receipt of the initial payment were placed before the Stakeholders' Consultation Committee at its ninth meeting held on 23.12.2024.

51. The Liquidator further submits that the entire balance consideration, together with applicable interest, was received by 09.01.2025. Consequently, the Sale Certificate dated 10.01.2025 was issued in accordance with Clause 13 of Schedule I of the Liquidation Process Regulations, which provides that upon payment of the full amount, the sale shall stand completed and the Liquidator shall execute the certificate of sale or sale deed.

52. It is further submitted that the records of Gouri were furnished to the successful auction purchaser and that the liquidation was formally closed by the order dated 12.08.2025 accepting the final report filed by the Liquidator. The Liquidator also relies upon the order dated 12.08.2025 in I.A. (IB) No. 344/KB/2025, recognising the rights of Pashupati Corporation concerning recovery of Gouri's receivables.

53. The Liquidator disputes the allegations regarding irregularities in the Sale Certificate. He submits that the absence of a counter-signature by the auction purchaser was not a requirement under the applicable regulations and that the Sale Certificate was issued upon receipt of the full sale consideration.

54. It is further submitted that Respondent No. 1 had knowledge of the sale much earlier than 17.03.2025, as is evident from his own communication dated 04.02.2025 and the minutes of the CoC meeting dated 05.03.2025.

55. The Liquidator specifically questions the locus of Respondent No. 1 to challenge the sale conducted in the separate liquidation proceedings of Gouri. According to him, the Resolution Professional of Chaitanya was neither a creditor, nor a stakeholder, nor a bidder in the liquidation proceedings of Gouri and could not assume a supervisory role over the acts of the Liquidator in those proceedings.

56. The Liquidator further submits that he continued participating in the CoC meetings of Chaitanya because Gouri held approximately 96.97% voting

rights and the Resolution Professional had not recognised Pashupati Corporation as its representative. According to him, his participation was intended to ensure that the CoC meetings could be conducted and was not an exercise of any personal interest.

57. Reliance has been placed upon ***V.S. Palanivel v. P. Sriram, Liquidator*, 2024 INSC 659**, in support of the proposition that under Clauses 12 and 13 of Schedule I, payment of the full amount results in completion of the sale. Reliance is also placed upon ***B. Arvind Kumar v. Government of India*, (2007) 5 SCC 745,** and ***Valji Khimji and Company v. Official Liquidator of Hindustan Nitro Product (Gujarat) Limited*, (2008) 9 SCC 299**.

58. The Liquidator also invokes the protection under Section 233 of the Code for acts performed in good faith in discharge of statutory duties.

Issues for consideration

59. Having considered the submissions advanced by the parties and examined the material available on record, the following questions arise for consideration:

i. Whether Respondent No. 1, being the Resolution Professional in the CIRP of Chaitanya, could maintain an application in the proceedings of Chaitanya challenging the Sale Certificate issued in the separate liquidation proceedings of Gouri?

ii. Whether the Adjudicating Authority was justified in issuing directions restraining Pashupati Corporation from participating in and voting at the CoC meetings of Chaitanya without adjudicating the competing claims in the presence of all necessary parties?

iii. Whether the application filed by Pashupati Corporation seeking recognition of its voting rights could have been disposed of as infructuous without independently examining the reliefs claimed therein?

iv. Whether the resolution plans considered in the fifth and sixth CoC meetings had received final approval in accordance with the provisions of the Code and the applicable Regulations?

v. What consequential directions are required to be issued?

Analysis and findings

Maintainability of the application challenging the Sale Certificate

60. The first issue requiring consideration is the maintainability of I.A. (IB) No. 1025/KB/2025 filed by Respondent No. 1.

61. It is not in dispute that the CIRP of Chaitanya was initiated on 02.08.2024 on an application filed by the Liquidator of Gouri under Section 9 of the Code. Gouri was thus an Operational Creditor of Chaitanya and held approximately 96.97% voting rights in its CoC.

62. It is equally undisputed that Gouri was undergoing liquidation in separate proceedings bearing C.P. (IB) No. 103/KB/2020 and that the Liquidator conducted an auction for the sale of Gouri as a going concern. Pashupati Corporation emerged as the successful bidder, paid the sale consideration and was issued the Sale Certificate dated 10.01.2025.

63. The proceedings relating to the liquidation of Gouri and the CIRP of Chaitanya are separate proceedings, though certain commercial rights and liabilities connect the two. The Liquidator of Gouri was acting under the authority conferred upon him in the liquidation proceedings of Gouri, whereas Respondent No. 1 was appointed as Resolution Professional in the CIRP of Chaitanya.

64. The Sale Certificate in question was issued by Respondent No. 2 in the exercise of his statutory functions in the liquidation proceedings of Gouri. Respondent No. 1, who was appointed as Resolution Professional in the CIRP of Chaitanya, was not the Liquidator of Gouri and was not conducting the liquidation auction in which the Sale Certificate came to be issued.

65. In these circumstances, Respondent No. 1 could not assume the role of an appellate or supervisory authority over the acts performed by the Liquidator in the independent liquidation proceedings of Gouri.

66. If Respondent No. 1 had any genuine grievance concerning the validity of the auction or the issuance of the Sale Certificate, the same was required

to be raised before the competent forum in the appropriate proceedings, after impleading the necessary parties, including the successful auction purchaser.

67. We also notice that Pashupati Corporation, in whose favour the Sale Certificate had been issued and whose rights were directly affected by the challenge, was not impleaded as a necessary party in the application filed by Respondent No. 1. An adjudication having the effect of questioning or restricting rights flowing from a Sale Certificate could not properly have been undertaken in the absence of the successful auction purchaser.

68. The proceedings concerning Chaitanya could not be used as a collateral forum to challenge the validity of a sale conducted in the separate liquidation proceedings of Gouri, particularly when the person in whose favour the sale had been conducted was not before the Adjudicating Authority as a necessary party.

69. It is also to be noted that, in the separate liquidation proceedings, the Adjudicating Authority, vide order dated 12.08.2025 passed in I.A. (IB) No. 344/KB/2025, recognised the rights of Pashupati Corporation concerning the receivables of Gouri and directed the Liquidator to assist in the smooth transfer of the sale.

70. We, therefore, find substance in the objection raised by the Appellants and Respondent No. 2 that the application filed by Respondent No. 1, insofar as it sought to challenge the Sale Certificate issued in the separate liquidation

proceedings of Gouri, was not maintainable in the manner in which it was instituted and adjudicated.

71. It is relevant to clarify that the present finding does not amount to a declaration by this Tribunal that every right, title and interest attached to Gouri automatically stood transferred to Pashupati Corporation for all purposes on 10.01.2025. Nor are we called upon in the present appeals to conclusively determine the validity or otherwise of the Sale Certificate in the liquidation proceedings of Gouri. Our finding is confined to the maintainability of the challenge raised by Respondent No. 1 in the proceedings relating to the CIRP of Chaitanya and the manner in which the consequential directions came to be issued.

Participation in the CoC meetings and the conduct of the parties

72. We now turn to the question of participation of the Appellants in the CoC meetings of Chaitanya.

73. The records indicate that Respondent No. 1 was informed about the sale of Gouri and the issuance of the Sale Certificate. It is also evident that the Liquidator and the successful auction purchaser were intimated about the fifth CoC meeting held on 05.03.2025.

74. Respondent No. 1 contends that Pashupati Corporation was duly informed of the meeting but chose not to participate. The Appellants, on the other hand, contend that despite being aware of the sale, the Resolution Professional continued to recognise the Liquidator as the representative of Gouri.

75. The fifth CoC meeting was attended by the Liquidator. The resolution plans of two resolution applicants were considered and received conditional approval, subject to the conditions recorded in the minutes. Significantly, the minutes themselves refer to the issuance of the Sale Certificate in favour of Pashupati Corporation.

76. It is also evident that on 10.03.2025, Pashupati Corporation requested deferment of voting and reconstitution of the CoC. The Resolution Professional, however, filed the application seeking approval of the resolution plan on 11.03.2025.

77. Thereafter, in the sixth CoC meeting held on 03.04.2025, the representative of Pashupati Corporation raised the issue of reconstitution of the CoC and withdrawal of the resolution plan approval application. During the meeting, questions were raised regarding the legal authority under which the representative of the auction purchaser was seeking to participate and exercise the rights of Gouri. It was ultimately decided to obtain a legal opinion.

78. From the above sequence, it is apparent that the issue concerning representation of Gouri in the CoC of Chaitanya had arisen well before the filing of the application by Respondent No. 1. The Resolution Professional was aware of the competing claims and had also received communications from Pashupati Corporation.

79. We also notice that the Appellants had paid ₹ 8,50,000/- towards CIRP costs on 21.03.2025. Respondent No. 1 subsequently addressed

communications to Pashupati Corporation seeking further contributions towards CIRP expenses. While such communications may not, by themselves, conclusively establish ownership or voting rights, they are relevant circumstances which ought to have been considered while examining the conduct and respective claims of the parties.

80. Similarly, the statement made by counsel for Respondent No. 1 before the Adjudicating Authority on 24.04.2025, regarding the possible requirement of reconstitution of the CoC and reconsideration of the resolution plan, is also a relevant circumstance. Though such a statement cannot, by itself, determine the legal rights of the parties, it cannot be ignored while examining the subsequent conduct of Respondent No. 1.

81. Respondent No. 1 was undoubtedly required to act in a fair, impartial and independent manner in conducting the CIRP. Faced with competing claims concerning the representation of a creditor holding approximately 96.97% voting rights, the Resolution Professional was expected to bring the controversy before the competent Adjudicating Authority in an appropriate manner and ensure that the rights of all concerned parties were considered.

82. At the same time, the mere issuance of notices to Pashupati Corporation or its participation in discussions cannot be treated as a final determination of its entitlement to exercise voting rights. Equally, the continued participation of the Liquidator after issuance of the Sale Certificate

cannot, by itself, conclusively determine the legal status of the successful auction purchaser.

83. These circumstances demonstrate that the controversy required a proper adjudication on the basis of the auction documents, the Sale Certificate, the applicable provisions of the Code and the Liquidation Process Regulations, and the rights flowing from the sale. Such adjudication could not have been effectively undertaken by simply restraining one claimant and directing the other to continue exercising the voting rights.

Whether the Sale Certificate by itself conferred voting rights

84. A substantial part of the arguments advanced by the parties concerns the legal effect of the Sale Certificate dated 10.01.2025.

85. The Appellants rely upon Regulation 32A and Clause 13 of Schedule I of the Liquidation Process Regulations, particularly the provision that upon payment of the full amount, the sale shall stand completed and the Liquidator shall execute a certificate of sale or sale deed.

86. The Liquidator also relies upon the aforesaid provision and the decision of the Hon'ble Supreme Court in ***V.S. Palanivel v. P. Sriram, Liquidator*, 2024 INSC 659**, to submit that the sale stood completed upon receipt of the full consideration.

87. On the other hand, Respondent No. 1 relies upon the conditions contained in the E-Auction Process Document and the Letter of Intent, particularly the provisions relating to extinguishment of existing equity share

capital, issuance of fresh equity shares and compliance with Section 29A of the Code.

88. Respondent No. 1 submits that these conditions were essential for completion of the transfer of the corporate debtor as a going concern and that the Sale Certificate could not be read in isolation from the terms and conditions governing the auction.

89. We are of the view that the competing submissions raise issues which require examination of the complete auction documents, the terms of the Letter of Intent, the Sale Certificate and the subsequent steps taken by the Liquidator and the successful auction purchaser.

90. The issue cannot be determined merely by relying upon the description of the transaction as a going concern sale or by treating the Sale Certificate as conclusive for every purpose without examining the conditions governing the transaction.

91. Equally, the mere existence of provisions concerning extinguishment of existing share capital and issuance of fresh shares cannot be examined in isolation without considering the statutory scheme governing a going concern sale under the Code and the Liquidation Process Regulations.

92. The decision of the Hon'ble Supreme Court in ***B. Arvind Kumar v. Government of India*****, (2007) 5 SCC 745**, and the other authorities relied upon by the parties concerning the effect of confirmation of an auction sale

are required to be considered in the context of the particular statutory framework and the nature of the transaction in the present case.

93. We also notice that by the order dated 12.08.2025 passed in the separate liquidation proceedings, the Adjudicating Authority recognised the rights of Pashupati Corporation in respect of recovery of the receivables of Gouri and directed the Liquidator to assist in the smooth transfer of the sale. The effect of the said order, including its implications for the representation of Gouri in the CoC of Chaitanya, also requires consideration.

94. We, therefore, do not consider it appropriate to record a final finding in the present appeals on the precise date on which all ownership, management and voting rights of Gouri stood vested in Pashupati Corporation. Such an exercise would require examination of the complete documents and the participation of all parties whose rights may be affected.

95. The Adjudicating Authority shall undertake this exercise afresh, after hearing the parties concerned and considering the legal effect of the auction, payment of consideration, issuance of the Sale Certificate and the subsequent corporate actions, if any.

Whether the resolution plan had received final approval

96. There is another significant aspect of the matter which cannot be overlooked.

97. The fifth CoC meeting was held on 05.03.2025 and the sixth CoC meeting on 03.04.2025. Although resolution plans were considered and

conditional approval was recorded in the fifth meeting, the material placed before us does not establish that a final vote on the resolution plan was conducted and that the plan received the requisite approval in accordance with the provisions of the Code.

98. The minutes of the fifth meeting specifically refer to conditional approval and the circumstances arising out of the issuance of the Sale Certificate in favour of Pashupati Corporation. The sixth meeting, on the other hand, dealt with the request for reconstitution of the CoC, withdrawal of the application seeking approval of the resolution plan and obtaining a legal opinion.

99. In the absence of a clear record establishing final approval of the resolution plan through the requisite voting process, it cannot be presumed at this stage that the resolution plan stood finally approved by the CoC.

100. We also notice that I.A. (IBC)(PLAN)/8/KB/2025 seeking approval of the resolution plan was filed on 11.03.2025. However, the mere filing of an application seeking approval of a resolution plan cannot, by itself, establish that the plan had been approved in accordance with law.

101. The question whether the resolution plan had received valid approval, whether the voting process was properly conducted and whether any subsequent action was taken in accordance with the Code and the applicable Regulations must be examined by the Adjudicating Authority on the basis of the complete minutes of the CoC meetings and the relevant records.

102. We are, therefore, not persuaded to accept the contention that the resolution plan had attained finality merely because an application seeking its approval had been filed before the Adjudicating Authority.

Whether the impugned directions can be sustained

103. Having considered the entire factual background, we find that the impugned order proceeds on the basis that ownership and control of Gouri could not have passed to Pashupati Corporation until extinguishment of the existing share capital and issuance of fresh shares.

104. However, before issuing directions restraining Pashupati Corporation from participating in or voting at the CoC meetings of Chaitanya, the Adjudicating Authority was required to examine the maintainability of the challenge raised by Respondent No. 1, the nature of the proceedings in which the Sale Certificate had been issued and the rights of the successful auction purchaser.

105. As noticed above, Pashupati Corporation was not impleaded as a necessary party in the application filed by Respondent No. 1 challenging the Sale Certificate. Further, the sale itself had been conducted in separate liquidation proceedings of Gouri.

106. In our considered view, the application filed by Respondent No. 1 could not have been used to obtain directions having the effect of restricting the rights of the successful auction purchaser in the absence of an appropriate adjudication in the presence of all necessary parties.

107. The Adjudicating Authority also disposed of the application filed by Pashupati Corporation seeking recognition of its voting rights as infructuous, without independently determining the substantive reliefs sought therein.

108. Once the issue concerning the representation of Gouri had directly arisen and the competing claims had been placed before the Adjudicating Authority, it was necessary to adjudicate the same on its merits. The application filed by Pashupati Corporation could not have been disposed of as infructuous merely on the basis of the findings recorded in the application filed by Respondent No. 1.

109. We are also conscious of the fact that the CIRP of Chaitanya is a time-bound statutory process and that unnecessary interference or reopening of concluded steps may have serious consequences. At the same time, the objective of timely resolution cannot justify continuation of a process without properly determining the rights of a creditor holding approximately 96.97% voting rights in the CoC, particularly when the validity of the representation itself has become a subject matter of dispute.

110. In these circumstances, we are of the considered view that the impugned common order cannot be sustained and the matter requires fresh consideration by the Adjudicating Authority.

Conclusion and Order

111. For the reasons discussed above, both the appeals are allowed. The common impugned order dated 12.05.2026 passed by the National Company Law Tribunal, Kolkata Bench, in I.A. (IB) No. 1025/KB/2025 and I.A. (IB) No.

1411/KB/2025 in C.P. (IB) No. 13/KB/2024 is set aside. The matter is remitted to the Adjudicating Authority for fresh consideration of the issues arising out of the competing claims concerning the representation of Gouri in the CoC of Chaitanya. The Adjudicating Authority shall ensure that all necessary and proper parties, including Pashupati Corporation, the Liquidator of Gouri, the Resolution Professional of Chaitanya and such other parties whose rights may be affected, are before it prior to proceeding to adjudicate the controversy. The Adjudicating Authority shall examine the effect of the Sale Certificate dated 10.01.2025, the terms and conditions of the E-Auction Process Document and the Letter of Intent, the provisions of the Code and the Liquidation Process Regulations, and the subsequent actions taken in connection with the sale of Gouri. It shall also consider the legal effect of the order dated 12.08.2025 passed in the separate liquidation proceedings of Gouri. The Adjudicating Authority shall independently examine the maintainability of the applications, the entitlement of the respective parties to represent Gouri in the CoC of Chaitanya, and the consequential voting rights, after affording adequate opportunity of hearing to all concerned parties. The Adjudicating Authority shall also examine the minutes of the fifth and sixth CoC meetings, the nature of the conditional approval recorded therein, and whether the resolution plan submitted by the resolution applicants had received valid and final approval in accordance with the Code and the applicable Regulations. The Adjudicating Authority shall thereafter take an appropriate decision concerning the pending resolution plan application, including the question whether any further action is

required from the CoC, strictly in accordance with law. The Adjudicating Authority shall also consider the prayer of the Appellants for appropriate exclusion of the period consumed in the present proceedings from the CIRP period, in accordance with the applicable provisions of the Code and the relevant judicial principles. We make it clear that we have not expressed any final opinion on the ultimate entitlement of Pashupati Corporation to exercise the voting rights of Gouri with effect from 10.01.2025. All such issues shall remain open for consideration by the Adjudicating Authority in accordance with law. The Adjudicating Authority shall endeavour to decide the matter expeditiously, preferably within three months from the date of receipt of a copy of this judgment, keeping in view the statutory timelines governing the CIRP. Nothing contained in this judgment shall be construed as an expression of opinion on the merits of the rival claims, which shall be decided independently by the Adjudicating Authority on the basis of the material placed before it.

112. Both the appeals stand disposed of in the above terms. All pending IAs, if any, stand closed. No order as to costs.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
November 20, 2026.
pawan/ritesh