

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Ins) No. 1614 of 2025

[Arising out of the Order dated 28.08.2025, passed by the 'Adjudicating Authority' (National Company Law Tribunal, Indore Bench), IN IA/2 (Plan) (MP)2025 IN CP (IB) NO. 81 (MP) OF 2022]

IN THE MATTER OF:

M/S CINE-CORP FILMDOM PVT. LTD.

1. ADDRESS AT:

**F NO. 504 BUILDING KARNA,
NL COMPLEX, OFF LINK ROAD,
DAHISAR,
MUMBAI, DAHISAR EAST,
MAHARASHTRA, INDIA, 400068
EMAIL: - pritam@psathavale.com**

...Appellant

Versus

**1. MR. ASHOK KUMAR GULLA
RESOLUTION PROFESSIONAL OF
M/S CARNIVAL FILMS PVT. LTD.**

ADDRESS AT:

**RBSA RESTRUCTURING ADVISORS LLP
6th FLOOR, TOWER A, BUILDING NO. 7,
DLF CYBER GREENS, DLF CYBER CITY,
PHASE 2, SECTOR 24, GURUGRAM -
122002, INDIA**

EMAIL:- ashok.gulla@rbsa.in

...Respondent No.1

**2. COMMITTEE OF CREDITORS OF
M/S CARNIVAL FILMS PVT. LTD.**

**(THROUGH CFM ASSET
RECONSTRUCTION PVT. LTD.)**

ADDRESS AT:

**BLOCK NO. A/1003, WEST GATE, NEAR
YMCA CLUB,
SUR NO. 835/13, S.G. HIGHWAY,
MAKARBA, AHMEDABAD, AHMEDABAD,
GUJARAT, INDIA, 380051**

EMAIL:- info@cfmarc.in

...Respondent No.2

Present:

For Appellant : Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Ms. Ridhima Mehrotra, Advocates

For Respondent : Mr. Nakul Sachdeva, Mr. Sagar Arora, Mr. Shreyash Rathi, Mr. Shrinkhla Tiwari, Mr. Abhinandan Sharma Advocates for R-1& 2.

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

[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]

The present Appeal under Section 61 of the Code has been preferred by Appellant M/s Cine-Corp Filmdom Pvt. Ltd. i.e., the Successful Resolution Applicant (hereinafter referred to as “Appellant” / “SRA”) for M/s Carnival Films Pvt. Ltd. (“Corporate Debtor”), assailing the order dated 28.08.2025 (“Impugned Order”) passed by the Ld. National Company Law Tribunal, Indore Bench (“Adjudicating Authority”) in I.A (Plan) No. 02 of 2025 in CP (IB) No. 81 (MP) of 2022, whereby the Ld. Adjudicating Authority, while approving the Resolution Plan dated 10.04.2025, imposed certain conditions and introduced certain modifications in the Resolution Plan and the Appeal has been confined to the limited extent of assailing only the conditions/ modifications imposed by the Ld. Adjudicating Authority in paragraph 25 of the Impugned Order, with regard to the Resolution Plan submitted by the Appellant.

2. Brief factual matrix pertaining to this appeal is that on a Company Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“Code”) by Amar Construction, being an Operational Creditor of the CD, the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor vide order dated 22.03.2024 passed by the Ld. Adjudicating Authority and Mr. Satyendra Sharma was appointed as the Interim Resolution Professional (“IRP”). Pursuant to the Public Announcement, the IRP collated all claims submitted by creditors in terms

of Section 18(1)(a) of the Code and after the determination of the financial position of the Corporate Debtor, the Committee of Creditors (“CoC”) was constituted in terms of Section 21 of the Code and in the 2nd meeting of the CoC which was held on 02.05.2024 the IRP was replaced and Mr. Ashok Kumar Gulla was appointed as the Resolution Professional (Respondent No. 1), which was also confirmed by the Ld. Adjudicating Authority vide order dated 16.05.2024.

3. The RP thereafter issued Form-G on 05.07.2024, which was re-published on 02.08.2024 and in response of the same, the Appellant on 22.08.2024 submitted its Expression of Interest (EOI) for the purpose of submitting Resolution Plan for the Corporate Debtor and out of 6 Prospective Resolution Applicants (PRA), it was only the Appellant who submitted a Resolution Plan, initially of the value of INR 3,00,00,000/- (Rupees Three Crores only), however, on increase of the value of the Corporate Debtor on account of amount realized from the sale of its assets, the CoC found the initial plan value to be inadequate and accordingly requested the Appellant (SRA) to reconsider and revise the plan. The Appellant accordingly submitted a revised Resolution Plan valued at INR 23,00,00,000/- (Rupees Twenty-Three Crores only). It is reflected that in pursuance of further discussions and negotiations with the CoC, the Appellant SRA again submitted its final Resolution Plan valued at INR 23,19,00,000/- (Rupees Twenty-Three Crores Nineteen Lakhs only).

4. It was in the 20th CoC meeting, the aforesaid Resolution Plan submitted by the Appellant was put forth before the members of the CoC and was duly approved on 12.04.2025 with 93.31% voting in favour by the

CoC members and consequently an application bearing I.A. (Plan) No. 02 of 2025 was filed by the RP, before the Ld. Adjudicating Authority under Section 30(2) read with 31 of the Code for the purpose of seeking approval of the Resolution Plan as approved by the CoC. The Ld. Adjudicating Authority, after considering the submissions of the Resolution Professional and examining the compliance certificate in Form-H, has held that the Resolution Plan submitted by the Appellant, though approved the Resolution Plan under Section 31 of the Code, however, while granting such approval, exercising suo moto powers, imposed certain conditions and modifications to the Resolution Plan in para No. 25 of the order.

5. Aggrieved by imposition of these conditions and modifications, this appeal has been preferred by the SRA/Appellant praying to modify the impugned order 28.08.2025, to the extent it restrains the appellant from utilising the funds available in the current account of the CD for making payments to the creditors under the plan.

6. Ld. counsel or the appellant submits that the Ld. Adjudicating Authority has committed manifest illegality in imposing the conditions contrary to the express terms of the Resolution Plan which was approved by the CoC of the Corporate Debtor under their commercial wisdom, especially when the Resolution Plan categorically stipulates that the funds available with the Corporate Debtor shall be utilized towards making payments to the creditors. Furthermore, under the Resolution Plan, a specific amount of INR 15,00,000/- (Rupees Fifteen Lakhs only) has been duly earmarked towards provident fund dues against any contingent claim.

7. It is further submitted that all the conditions and modifications imposed by the Ld. Adjudicating Authority are wholly unsustainable and liable to be set aside and that the Ld. Adjudicating Authority has limited jurisdiction to approve, reject, or remand the Resolution Plan to the CoC for reconsideration, and does not have at all the power to impose modifications or conditions contrary to, or in addition to, the terms of the Resolution Plan.

8. It is vehemently submitted that the impugned modifications made by the Ld. Adjudicating Authority suo moto are contrary to the terms of the resolution plan as the appellant while revising the resolution plan value pursuant to the request of the CoC and considering the funds which would be received from the sale of CD's assets, it was made clear that these funds would be utilized for payment of the CIRP Cost as well as creator pay outs. Therefore, the Ld. Adjudicating Authority was not having any occasion to modify the terms of the resolution plan consciously approved by the CoC.

9. Ld. Counsel for the appellant while relying on ***K Sashidar v. Indian Overseas Bank ((2019) 12 SCC 150)***, ***Committee of Creditors of Essar Steel India ltd. vs. Satish Kumar Gupta ((2020) 8 SCC 531)***, and ***Jaypee Kensington Boulevard Apartments Welfare Association vs. NBCC (India) Ltd. (2022) 1 SCC 401*** has categorically submitted that so far as the matters of financial distribution and restructuring of the resolution plan is concerned the Ld. Adjudicating Authority should not have any jurisdiction to interfere therein more so when the terms are for the payment to the creditors.

10. It is submitted that Section 31 of the Code makes it clear that the adjudicating authorities jurisdiction is restricted to the approval or rejection

of the resolution plan and once the adjudicating authority is satisfied that the resolution plan complies with the provisions of law it has no option except to approve the plan.

11. It is further submitted that Ld. Adjudicating Authority, in paragraph no. 19, 20 of the impugned order has duly recorded that the resolution plan is in conformity with the provisions of the code and also observed that the adjudicating authority cannot venture into the commercial aspects of the decisions taken by the CoC.

12. While drawing the attention of this appellate tribunal towards **Pioneer Engineering Industries vs. Anjali Capfin Pvt. Ltd. & Ors., CA (AT) (Ins) No. 1382 of 2024 (para no. 19-20)** it is submitted that it has been the consistent view of the Hon'ble Supreme Court as well as of this appellate tribunal that Ld. Adjudicating authority cannot venture into the commercial aspects of the resolution plan and nor it is competent to impose any condition contrary to or in addition to its terms.

13. Ld. Counsel for the Appellant has relied on the following case laws: -

(i) Jaypee Kensington Boulevard Apartments Welfare Association v NBCC (India) Limited, (2022) 1 SCC 401;

(ii) SREI Multiple Asset Investment Trust Vision India Fund v Deccan Chronicle Marketeers and Others Civil Appeal No. 1706 of 2023;

(iii) Mathuraprasad C. Pandey and Ors. Vs. Partiv Parikh RP of M.V. Omni Projects (India) Ltd. 2022 SCC OnLine NCLAT 1608;

(iv) JSW Steel Ltd. v. Ashok Kumar Gulla & Ors. Company Appeal (AT) (Insolvency) No. 467 of 2019; and

**(v) Pioneer Engineering Industries v. Anjali Capfin Pvt Ltd & Ors
Company Appeal (AT) (INS) NO.1382 OF 2024.**

14. Ld. counsel for the Respondent no. 1 & 2 also supports the submission made by Ld. Counsel for the appellant by submitting that there was no jurisdiction with the Adjudicating Authority to have imposed any condition on the resolution Plan approved by the COC, more so contrary to the specific terms of the Plan.

15. It is further submitted that the Respondents are not having any objection if this appellate tribunal deems it appropriate to allow the appeal and this has also been recorded in the minutes of the second meeting of the monitoring committee held on 25.09.2024.

16. It is vehemently submitted that the corporate debtor (CD) was primarily involved into the business of operating theatres taking on long term lease in lieu of monthly rent and due to the happening of covid-19 and subsequently, directives issued by the Government the business of the CD came to a standstill and was further deteriorated during the second wave of covid and the CD became incapable of making payments towards creditors, resulting in the initiation of insolvency process against him and in response to Form G six entities have submitted their EOI but the resolution plan could only be submitted by the appellant for a value of Rs. 3 crores.

17. It is further submitted that the owners of the cinema premises despite the closure of the business of the CD had retained the assets of the CD e.g. projector, speakers, etc. and in response to the notices issued by the RP, few owners and operators approached the CoC and settled the matter by offering consideration in lieu of such assets and in this view of the matter the

appellant was requested by the CoC to revise its plan and it is after such request the appellant has revised the value of the resolution plan to Rs. 23.91crores which was approved by the CoC with 93.31% voting share in its 20th meeting held on 11.04.2025.

18. It is further submitted that the settled view of this appellate tribunal as well as the Hon'ble Apex Court is of non-interference in the commercial wisdom of the CoC while considering the resolution plan and once the resolution plan is found fit, in view of Section 31 of the Code, the adjudicating authority is not having any jurisdiction to modify its terms specially the commercial terms which have been consciously approved by the CoC. Reliance in this regard has been placed on the judgment propounded by the Apex Court in **Jaypee Kensington boulevard Apartments Welfare Association & Ors. Vs. NBCC (India) Ltd. & Ors. in Civil Appeal no. 3395 of 2020.**

19. Having heard Ld. counsel for the parties and having perused the record we find that the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor vide order dated 22.03.2024 passed by the Ld. Adjudicating Authority on a Company Petition filed by the Amar Construction under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Mr. Satyendra Sharma was appointed as the Interim Resolution Professional of the CD.

20. It is further reflected that in pursuance to the public announcement, claims were submitted by the creditors and IRP collated claims and constituted the Committee of Creditors in terms of Section 21 of the Code comprising CFM Asset Reconstruction Pvt. Ltd. (93.31%), Big Tree

Entertainment Pvt. Ltd (3.23%), One 97 Communication Ltd. (2.20%), Hewett Packard Financial Service Pvt. Ltd. (1.00%) and Vekataash Griha Nirman Pvt. Ltd (0.17%). In the meeting of the COC held on 02.05.2024 the IRP was replaced with Mr. Ashok Kumar Gulla as the Resolution Professional, which was also confirmed by the Ld. Adjudicating Authority.

21. The RP on 05.07.2024 issued the Form- G however no EOI was received, the CoC in its 5th (meeting resolved to re-issue Form - G in terms of Regulation 36B(6A) of the CIRP Regulations, 2016 and the Form-G was again issued. The CoC in its 6th (sixth) meeting approved the resolution to extend the CIRP period by 90 (ninety) days beyond one-eighty (180) days and also the modified Evaluation Matrix and RFRP. In total six (6) PRAs were included in the final list and pursuant to the requests of the PRAs the COC resolved to extend the last date of the submission of the Resolution Plan and the extension of the CIRP was also made many times and ultimately out of 6 PRA's, the appellant alone submitted the Resolution Plan which was discussed in the 12th meeting of the CoC and the CoC resolved to issue fresh Form G. The revised plan was submitted by the appellant and the was discussed and deliberated upon by the COC and the RP was requested to have the Resolution Plan vetted to ensure its compliance with the provisions of the Code and Mr. Anuj Sharma was appointed by the RP to vet the Resolution Plan submitted by the Appellant and he after vetting submitted his report.

22. It is also pertinent to mention here that the CD was primarily in the business of operating theaters, taken on long term lease and due to happening of the Covid-19 the business came to stand still and the second

Covid wave further deteriorated the financial condition of the CD which resulted in not making payments by the CD towards the leasehold rents and consequently the owners of the theaters terminated the agreements executed with the CD and this resulted in the complete cessation of the business of the CD and it also ceases to be a going concern.

23. It is also reflected that despite the termination of the agreement with the CD the cinema theaters were retaining the assets of the CD e.g. Projectors, speakers etc. and in response to the notices issued by the RP for grant of possession to the CD, few operators/owners approached the CoC to settle the matter by offering consideration in lieu of assets of the CD and it is in this background the value of the CD increased substantially and CoC requested the appellant to revise the plan by increasing its value and after extensive discussion the appellant submitted the revised resolution plan with a value of Rs. 23.19 Cr.

24. It is also reflected that the Resolution Professional convened 20th CoC meeting wherein the Resolution Plan as submitted by the Appellant was approved on 12.04.2025 by the CoC members having 93.31% voting in favour of it. The RP thereafter filed an application bearing Plan.A-51/2024 on 07.09.2024 under Section 30 of the Code seeking approval of the Resolution Plan as approved by the CoC. The Ld. Adjudicating Authority vide order dated 28.08.2025 approved the Resolution Plan, whereby the Ld. Adjudicating Authority in paragraph number 25 also held as under:

"25. The Resolution Plan is approved subject to the following additional conditions:

. Form H notes that the Corporate Debtor has at present funds lying in the current account of around Rs 20. 0 crores and states that the same is sufficient to meet the Insolvency Resolution Process Cost and Liquidation Cost, if

any. The Tribunal directs that these funds shall be used for the business of the Corporate Debtor and only funds contributed by the RA as per Resolution Plan should be used to pay all the creditors as per the submitted Plan. The Monitoring Committee should monitor that the funds are not misused during the monitoring period.

• An IA is filed on 09.06.2025 by the Employees Provident Fund Organization and is pending for the Adjudication. The RP is directed to ensure that the pleadings are completed to enable this Tribunal to decide the application within a period of 60 days. The distribution of the Resolution Plan amount to the creditors will be subject to the decision on this Application filed by the EPFO. "

25. It is further reflected that RP in terms of the plan constituted the Monitoring Committee comprising the Secured Financial Creditor i.e., M/S CFM ARC Reconstruction Pvt. Ltd., Appellant and himself. The 1st meeting of the Monitoring Committee was convened on 04.09.2025, wherein the issue concerning the directions passed under paragraph 25 of the impugned judgment was raised and the issue was further discussed in the 2nd meeting of the Monitoring Committee held on 25.09.2025, wherein the Appellant reiterated that the directions passed by the Ld. Adjudicating Authority under paragraph number 25 amounts to a modification of the Resolution Plan, which is impermissible under the provisions of the Code. The Secured Financial Creditor also stated that the directions passed under paragraph 25 are indeed contrary to the terms of the Resolution Plan and expressed that it would support the Appellant before this Hon'ble Tribunal to the extent that the Ld. Adjudicating Authority restricts the Appellant from using the funds in the Corporate Debtor's account to discharge payments to the creditors. Thus so far as the issue of modification concerning the utilization of the amount lying in the Corporate Debtor's account is concerned, the Secured Financial Creditor expressed its no objection.

26. The main issue which emerges for our consideration is that as to whether in the facts and circumstances of the case the Adjudicating Authority was empowered to suo moto modify the plan and could impose the impugned conditions.

27. In **Jaypee Kensington Boulevard Apartments Welfare Association v NBCC (India) Limited [(2022) 1 SCC 401]**, the case relied on by the Appellant Hon'ble Supreme Court opined as under: -

"273.1. The adjudicating authority has limited jurisdiction in the matter of approval of a resolution plan, which is well-defined and circumscribed by Sections 30(2) and 31 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by the Committee of Creditors. If, within its limited jurisdiction, the adjudicating authority finds any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the Committee of Creditors, for re-submission after satisfying the parameters delineated by the Code and expounded by this Court."

28. In **SREI Multiple Asset Investment Trust Vision India Fund v. Deccan Chronicle Marketeers and Others, 2023 SCC OnLine SC 298**, Hon'ble Supreme Court held as under: -

"21. The NCLAT, after taking into consideration the material available on record and Clause 11.12 of the Resolution Plan, in para 16 of the order of the adjudicating authority (NCLT) returned a finding that the ownership of the Corporate Debtor declared over the trademark after the approval of the Resolution Plan by the CoC, would amount to modification/alteration of the approved Resolution Plan by CoC which is impermissible in law and is not in terms of Section 60(5) of IBC."

22. *It has not been disputed by learned counsel for the appellant that once the Resolution Plan stands approved, no alterations/modifications are permissible. It is either to be approved or disapproved, but any modification after approval of the Resolution Plan by the CoC, based on its commercial wisdom, is not open for judicial review unless it is found to be not in conformity with the mandate of the IBC Code.”*

23. *It clearly manifests from the record that the Resolution Plan was approved by the CoC with 81.39% of voting and it complied with the requirement as contemplated under Section 30(2) and 30(4) of the IBC and so far as the exclusive right to use of brand names of “Deccan Chronicle” and “Andhra Bhoomi” is concerned, a specific reference was made in the Resolution Plan, and to be more particular in Clause 11.12 of the Resolution Plan.”*

29. In **M/s Pioneer Engineering Industries VS Anjali Capfin Private Limited & Others. Company Appeal (AT) (Ins) No. 1382 of 2024**, this appellate Tribunal also held as under: -

19. *Therefore, in view of the above, the Adjudicating Authority has no jurisdiction to enter into the commercial aspects of the resolution plan and to interfere with the wisdom of the CoC. It is a settled law the Adjudicating Authority cannot sit in appeal with respect to financial implications as considered by the CoC.*

20. *In view of the above-mentioned facts and legal position, the modification made to the resolution plan are set aside, and hence these three appeals are thus allowed.”*

30. In **Mathuraprasad C. Pandey and Ors. vs. Partiv Parikh RP of M.V. Omni Projects (India) Ltd. [2022 SCC OnLine NCLAT 1608]**, Hon'ble Supreme Court held as under: -

*"22. On examination of the aforesaid provisions there is no doubt that if a resolution plan is submitted before the Adjudicating Authority which is in compliance with sub-section (1) of Section 31 as well as in consonance with the provisions of Section 30 of the Code such resolution plan has to be approved by the Adjudicating Authority since in Section 31 word **"shall"** has been incorporated with proviso that the Adjudicating Authority must be satisfied that the resolution plan has provisions for its effective implementation. Sub-section (2) of Section 31 of the IBC further empowers the Adjudicating Authority to reject the resolution plan, if he is satisfied that resolution plan is not in conformity with the requirements as referred to in sub-section (1) of Section 31 of the IBC. It is clear that mandate of legislation is either to approve the resolution plan or to reject. However, there is no provision for making alteration or modification in the resolution plan. In view of the statutory provisions as contained in Section 31 of the IBC we are satisfied the learned Adjudicating Authority to some extent exceeded its jurisdiction in modifying/altering the conditions in the resolution plan which has been done in para 15 of the impugned order which we have already quoted hereinabove. In such view of the matter the appeal i.e. Company Appeal (AT)(Ins) No. 201/2021 can be allowed and it is held that the condition in para 15 of the impugned order shall not be looked into or may not be taken note of."*

31. In **JSW Steel Ltd. v. Ashok Kumar Gulla & Ors. [Company Appeal (AT)(Ins) NO. 467 of 2019]** this Appellate Tribunal held in para No.10 that

"10. We agree with the submissions made on behalf of the appellant that the Adjudicating Authority has no jurisdiction to impose such conditions with regard to amount as may be recoverable by the "corporate debtor" in future."

32. This Appellate Tribunal in **Calyx Chemicals and Pharmaceuticals Private Limited Vs RAVINDRA N. ATHAVALE & ORS. Company Appeal (AT) (Insolvency) No. 522 of 2024: (2024) ibclaw.in 840 NCLAT** held as under:

"29. Considering the overall architecture of the IBC and the Court evolved jurisprudence, it is clear that the Adjudicating Authority is not empowered to modify the resolution plan approved by the Committee of Creditors. In the eventuality of the Adjudicating Authority finding that the approved resolution plan requires certain modifications, it can only make suggestions regarding the modification of plan to the CoC but cannot unilaterally modify the plan. Providing any such relief through a process of judicial interpretation without consideration by CoC is impermissible. We do not find any complaint raised by the Respondent of any stalemate in the implementation of the resolution plan. There is no material on record to demonstrate any such non-compliance or default or failure or breach attributable on the part of the SRA in the plan implementation for the Corporate Debtor to warrant interference by the Adjudicating Authority. In such circumstances, the residual or inherent powers vested with the Adjudicating Authority cannot be invoked for accommodating a belated claim thereby causing modification of the Resolution Plan as these powers cannot be directed to create any such remedy which is contrary or in contravention of the IBC framework of insolvency resolution process."

33. In **Express Resorts and Hotels Limited Vs Amit Jain, Resolution Professional & ORS. Company Appeal (AT) (Insolvency) No.1158 of 2022: (2023) ibclaw.in 120 NCLAT** also this Appellate Tribunal considered this issue and [held](#) as under:

"26. The CoC being satisfied that financial offer given by the Applicant is satisfactory, exercise their commercial wisdom, even CoC cannot be allowed to change its view, since it is bound by its own decision taken in approving the Resolution Plan. Present is not a case where the CoC is pointing out any breach of procedure or manifest error in their approval of the Resolution Plan, which may be a ground to be pressed before the Adjudicating Authority. The CoC after full consideration has approved the Plan and the financial offer made by the Applicant in the Plan. In the name of receiving higher offer, subsequently, CoC cannot turn around and pray to the Adjudicating Authority to send the Plan back for consideration. The present case itself is an example that adopting such course by the CoC and Adjudicating Authority, enormous delay shall take

place, which is not in the interest of CIRP, nor in the interest of Corporate Debtor. The Corporate Debtor has to be revived with speed and in timelines, which has been prescribed in the CIRP. Once, the said object is achieved, the same shall not be allowed to frustrate on the grounds, which have been raised before the Adjudicating Authority in the present case. We may notice that in this Appeal, an interim order was passed on 21.09.2022, staying the further process in pursuance of the impugned order dated 06.09.2022, which order is still continued."

34. Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Through Authorised Signatory Vs Satish Kumar Gupta & Ors. CIVIL APPEAL NO. 8766-67 OF 2019 DIARY NO. 24417 OF 2019 (2020) 8 SCC 531**, had occasion to consider the scope of judicial review of the Adjudicating Authority in the context of Resolution Plan approved by the CoC and held as under:

"46. This is the reason why Regulation 38(1A) speaks of a resolution plan including a statement as to how it has dealt with the interests of all stakeholders, including operational creditors of the corporate debtor. Regulation 38(1) also states that the amount due to operational creditors under a resolution plan shall be given priority in payment over financial creditors. If nothing is to be paid to operational creditors, the minimum, being liquidation value - which in most cases would amount to nil after secured creditors have been paid - would certainly not balance the interest of all stakeholders or maximise the value of assets of a corporate debtor if it becomes impossible to continue running its business as a going concern. Thus, it is clear that when the Committee of Creditors exercises its commercial wisdom to arrive at a business decision to revive the corporate debtor, it must necessarily take into account these key features of the Code before it arrives at a commercial decision to pay off the dues of financial and operational creditors. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational

creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal."

35. This appellate tribunal in **Tarini Steel Company Pvt. Ltd. vs. Trinity Auto Components Ltd. & Anr. [CA (AT) (Ins) No. 75 of 2018]**

held as under:

"3. Learned Counsel for the appellant submits that the adjudicating authority has no jurisdiction to modify the 'resolution plan' once approved by the Committee of Creditors. However, if such submission is accepted in that case then only recourse will be available to the adjudicating authority is to reject the resolution plan, being not satisfied with the resolution plan.

36. **State Bank of India & Ors. vs. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch and Anr., (2024) ibclaw.in 290 SC,**

"114. However, the intent of the legislature is very clear on the aspect that once a Resolution Plan is approved by the Adjudicating Authority i.e., the NCLT, it becomes

binding on all the stakeholders involved in the Resolution Plan. Section 31(1) of the IBC, 2016 reads as thus:

“31. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, [including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,] guarantors and other stakeholders involved in the resolution plan.”

(emphasis supplied)

perusal of the above placed case laws would establish that the resolution plan once approved by the Committee of Creditors (CoC) in its commercial wisdom is generally binding on the CoC and cannot be sent back by the Adjudicating Authority for reconsideration except in limited circumstances. The key principle is that the commercial wisdom of the CoC is paramount and non-justiciable by the Adjudicating Authority, meaning thereby that the Adjudicating Authority cannot ordinarily interfere with or review the CoC's decision once a resolution plan is approved by the CoC, however, the Adjudicating Authority has the power to remit the resolution plan back to the CoC for reconsideration, only if it finds that the plan does not comply with the requirements of Section 30(2) of the Code. This includes situations where the plan is not feasible, viable, or does not meet legal requirements, reference in this regard may be taken of the law laid down by the Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors. (Supra)*** wherein it was held that the

Adjudicating Authority can send back a plan to the CoC if the plan fails to meet the statutory parameters under Section 30(2)(e).

37. In ***Nivaya Resources Pvt. Ltd. v. Asset Reconstruction Company (India) Ltd. and Anr. (2023) ibclaw, in 826 NCLAT***, this Appellate tribunal held that the Adjudicating Authority cannot send back a resolution plan for reconsideration of the CoC unless there is a violation of Section 30(2). The Tribunal emphasized that the CoC cannot review or reverse its own decision once the plan is approved, except in cases where the plan is not in accordance with Section 30(2) or if the resolution applicant becomes ineligible or breaches conditions of the plan after approval. The commercial wisdom of the CoC is given paramount status and is not to be interfered by the Adjudicating Authority.

38. This Appellate Tribunal in ***“Noble Marine Metals Co WLL vs. Kotak Mahindra Band Ltd. and Anr. - Company Appeal (AT) (Insolvency) No. 653 of 2022”*** held that the law is well settled that after approval of the resolution plan, it is binding on the CoC. In paragraph 8 of the judgment, following was stated: -

“8. The law is thus well settled that Resolution Plan is approved by the CoC is binding between the CoC and SRA. The question to be considered in this Appeal is as to whether, there are any circumstances and conditions, where Resolution Plan can be sent back for carrying out any changes. In this context, we refer to the Judgement of the Hon’ble Supreme Court in “Committee of Creditors of Essar Steel India Ltd. Vs. Satish Kumar Gupta & Ors.” [2020 8 SCC 531]. The Hon’ble Supreme Court in the above judgement had occasion to consider the scope of judicial review of the Adjudicating Authority in the context of Resolution Plan approved by the CoC. In paragraph 73, following has been held:

“This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal.”

39. We notice that the Adjudicating Authority in the impugned judgment has recorded a finding that the Resolution plan submitted by the Appellant/SRA is not violative of Section 30(2) of the Code and even thereafter has imposed two conditions to the effect that present funds lying in the current account of the CD i.e. around Rs. 20 crores, shall be used for the business of the Corporate Debtor and only funds contributed by the SRA as per Resolution Plan should be used to pay all the creditors as per the submitted Plan and also that the distribution of the Resolution Plan amount to the creditors will be subject to the decision on the Application filed by the EPFO. The para No. 20 of the impugned judgment wherein the satisfaction

has been recorded by the Ld. Adjudicating Authority pertaining to the compliance of Section 30 and 31 of the Code is reproduced as under: -

“20. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 93.31% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the RA for making the plan effective after approval by this Bench. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC, 2016 and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016”.

40. We even at the cost of repetition reiterates that the RP in terms of the plan has constituted the Monitoring Committee comprising of the Secured Financial Creditor i.e., M/S CFM ARC Reconstruction Pvt. Ltd., Appellant/SRA and himself and in the 1st and 2nd meeting of the Monitoring Committee convened on 04.09.2025 and 25.09.2025 the issue concerning the directions passed by the Ld. Tribunal under paragraph 25 of the impugned judgment was discussed, wherein the Appellant reiterated that the directions passed by the Ld. Adjudicating Authority under paragraph number 25 amounts to modification of the Resolution Plan and the Secured Financial Creditor also stated that the directions passed under paragraph 25 are contrary to the terms of the Resolution Plan and expressed that it would support the Appellant before this Hon'ble Tribunal to the extent the Ld. Adjudicating Authority restricts the Appellant from using the funds lying in the current account of the Corporate Debtor to discharge payments to the creditors. Thus so far as the issue of modification concerning the utilization

of the amount lying in the Corporate Debtor's account is concerned, the Secured Financial Creditor has already expressed its no objection.

41. We, having perused the Resolution Plan and the conditions imposed by the Ld. Tribunal are not having any quarrel with the direction with regard to the EPFO dues which are yet to be crystallised by the Adjudicating Authority, but may not approve the condition imposed by the Adjudicating Authority with regard to the utilisation of the amount lying in the Current Account of the CD for payment to the creditors. This condition in our understanding is a clear interference in the commercial wisdom of the COC and could not be permitted to stand and is liable to be set aside. It may be recalled that when after following the provisions of the Code and Regulations, the Resolution Plan submitted by SRA was approved by the COC in its commercial wisdom, the said approval has to be honoured and cannot be interfered in the guise of judicial review by the Adjudicating Authority, more so, when the Ld. Tribunal has itself recorded that the Resolution Plan does not violate any of the provisions of Section 30, sub-section (2). The object of IBC, to our understanding, is to revive the Corporate Debtor and put it again on the track. When a Resolution Plan, has been approved by the COC, after due deliberations exercising its commercial wisdom, it has to be accepted, unless it violates any statutory provisions as contained under Section 30, sub-section (2) of the Code.

42. In view of all the facts and circumstances of the case and for the reasons and law placed herein before, the impugned judgment cannot withstand the test of law propounded by the Hon'ble Supreme Court as well as by this Appellate Tribunal. In result the impugned Judgment passed by the

Adjudicating Authority dated 28.08.2025 passed in IA (Plan)/2(MP)2025 is set aside. Resultantly Company Appeal (AT) (Insolvency) No. 1614 of 2025 is **allowed.**

43. The matter is remitted back to the Ld. Adjudicating Authority to pass a fresh order on IA (Plan)/2(MP)2025 filed by the RP for the approval of the Resolution Plan and for this purpose the aforesaid IA is revived before the Adjudicating Authority.

44. We request the Adjudicating Authority to pass an appropriate order in IA (Plan)/2(MP)2025 strictly in accordance with law stated above, within 30 days from the date, a copy of this order is produced before it.

45. The parties shall bear their own costs. Pending IA's also stand disposed of.

[Justice Mohd. Faiz Alam Khan]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
16.01.2026.

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