NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1281 of 2025

[Arising out of order dated 18.06.2025 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench – VI) in IA (I.B.C) (Plan) No. 29/MB/2025 in CP (IB) No. 264/MB-VI/2020]

IN THE MATTER OF:

Western Coalfields Ltd. **...Appellant**

Versus

Bimal Kumar Agarwal,
(RP of Vidarbha Industries Power Ltd.) & Ors. **...Respondents**

Present:

For Appellant : **Ms. Pinky Anand, Sr. Advocate with Mr. Sumit Teterwal, Ms. Tanisha Samanta, Ms, Chanya Jaitly, Ms. Saudamini Sharma and Ms. Adeti Salooja, Advocates.**

For Respondents : **Mr. Krishnendu Datta, Sr. Advocate with Mr. Abhishek Swaroop, Ms. Shreya Chandhok and Mr. Yash Tandon, Advocates for R-1.**

Mr. Arun Kathpalia, Sr. Advocate with Ms. Daizy Chawla, Mr. Himanshu Dubey, Mr. Jatin Kapoor and Mr. Shaswat Singh, Advocates for R-2/ SRA.

WITH

Company Appeal (AT) (Insolvency) No. 1317 of 2025

[Arising out of order dated 18.06.2025 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench – VI) in IA (I.B.C) (Plan) No. 29/MB/2025 in CP (IB) No. 264/MB-VI/2020]

IN THE MATTER OF:

Pradeep Sot, (Employee Rep) **...Appellant**

Versus

Bimal Kumar Agarwal & Anr. **...Respondents**

Present:

For Appellant :

For Respondents : Mr. Krishnendu Datta, Sr. Advocate with Mr. Abhishek Swaroop, Ms. Shreya Chandhok and Mr. Yash Tandon, Advocates for R-1.

Ms. Daizy Chawla, Mr. Himanshu Dubey, Mr. Jatin Kapoor and Mr. Shaswat Singh, Advocates for R-2/ SRA.

J U D G M E N T

ASHOK BHUSHAN, J.

These two appeals have been filed against the same judgment and order dated 18.06.2025 passed by the adjudicating authority (National Company Law Tribunal, Mumbai Bench VI) in IA (IBC) (Plan) No. 29/MB/2025. By the impugned order, the adjudicating authority has allowed the IA (IBC) (Plan) No. 29/MB/2025 and approved the resolution plan submitted by the respondent No. 2 – Adani Power Ltd. Aggrieved by the order approving the resolution plan of the corporate debtor – Vidarbha Industries Power Ltd, these appeals have been filed.

2. Comp. App. (AT) (Ins.) No. 1281/2025 has been filed by Western Coalfields Ltd., an operational creditor, who had filed its claim in the Corporate Insolvency Resolution Process (CIRP). Comp. App. (AT) (Ins.) No. 1317/2025 has been filed by one Pradeep Sot an employee of the corporate debtor, aggrieved by approval of the resolution plan which has provided only Rs. 1 crore/- for total operational creditors including employees.

3. Brief facts of the case necessary to be noticed for deciding these two appeals are:

i. On an application filed by the financial creditor of the corporate debtor,

CIRP against the corporate debtor M/s. Vidarbha Industries Power Ltd.

commenced vide order dated 30.09.2024 in company petition bearing C.P. (IB) No. 264/MB – VI/2020. Original financial creditors; Axis Bank and State Bank of India assigned their debt to CFM Asset Reconstruction Pvt. Ltd.

ii. Order dated 30.09.2024 was rectified on 08.10.2024 by the adjudicating authority. IRP made a public announcement in Form A on 04.10.2024 inviting the claim for creditors of the corporate debtor. Committee of Creditors (CoC) was constituted with CFM Asset Reconstruction Pvt. Ltd. as sole Member of the CoC.

iii. The Western Coalfields Ltd., the appellant in Comp. App. (AT) (Ins.) No. 1281/2025 filed its revised claim From B dated 30.10.2024 claiming total amount of Rs.514,91,17,368.52/-.

iv. Appellant claimed the above amount as an operational debt in terms and conditions of the Fuel Supply Agreement (FSA) with the Vidarbha Industries Power Ltd. The Resolution Professional (RP) admitted the claim of the appellant Western Coalfields to the extent of Rs.502,58,00,000/- and balance amount was kept under verification.

v. List of creditors was published on 30.12.2024 and thereafter on 18.02.2025, where the same amount of admitted claim was reflected. The revised claim of the employees was submitted on 18.10.2024. A list of creditors was published reflecting the verified claim of operational creditor including the claim of employees. Form G was published inviting Expression of Interest (EoI).

vi. One claim was received from Pallas Holdings Ltd. whose claim was also verified as financial creditor. The CoC was reconstituted with CFM Asset Reconstruction Pvt. Ltd. with more than 94% vote shares and Pallas Holdings Ltd. about 5% vote shares.

vii. In pursuance of Form G, EoI were received and resolution plans received from 4 resolution applicants. The resolution plan submitted by R-2 came to be considered and approved unanimously in the 10th CoC Meeting held on 19.02.2025, who was declared as Successful Resolution Applicant (SRA).

viii. Letter of Intent (LoI) was issued to respondent No. 2 on 24.02.2025. SRA submitted its performance security of Rs.100 crore/- on 27.02.2025, thereafter RP filed an application I.A. (IBC) (Plan) No. 29/MB/2025 on 11.03.2025 before the adjudicating authority for approval of the resolution plan.

ix. On 01.04.2025, the SRA in exercise of its jurisdiction, reserved under Clause 3.7.1 of the resolution plan sought to modify the acquisition structure pertaining to the residual portion of the operational debt after accounting for the plan amount, the SRA decided instead of converting the resolution operational debt into equity shares followed by capital reduction such residual debts would stand extinguished.

x. The CoC convened its 11th Meeting on 01.04.2025 deliberated and unanimously approved the same. RP by additional affidavit dated 02.04.2025 placed the same before the NCLT. The RP also filed a

revised Form H as on 20.03.2025 and filed an affidavit dated 27.03.2025 in terms of the order dated 20.03.2023 passed by the NCLT.

xi. Adjudicating authority heard the parties and by impugned order approved the resolution plan. Aggrieved by the order approving the resolution plan, these two appeals have been filed.

4. We have heard learned Sr. counsel Ms. Pinky Anand appearing for the appellant in Comp. App. (AT) (Ins.) No. 1281/2025, learned counsels Mr. Anshul Agarwal and Ms. Kamakshi Gupta appearing for the appellants in Comp. App. (AT) (Ins.) No. 1371/2025. We have also heard learned Sr. counsel Mr. Arun Kathpalia appearing for the SRA as well as learned Sr. counsel Mr. Krishnendu Dutta appearing for the RP.

5. Learned Sr. counsel Ms. Pinki Anand appearing for the appellant in Comp. App. (AT) (Ins.) No. 1281/2025 submits that approval of the resolution plan is not in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (for short the IBC). It is submitted that CoC has approved the resolution plan after expiry of 180 days as stipulated under Section 12(1) of the IBC without seeking any extension from the adjudicating authority. The modified resolution plan dated 01.04.2025 was approved by the NCLT without there being any extension sought by the RP. It is submitted that original resolution plan was modified by the SRA after expiry of 180 days on 01.04.2025 which modified plan was approved by the CoC on the same day i.e., on 01.04.2025. CoC never passed a resolution for seeking extension of the period of CIRP beyond 180 days and RP by way of an affidavit dated 02.04.2025 after expiry of 185 days filed the modified resolution plan. The

NCLT erred in approving the revised resolution plan despite the resolution plan having been approved after expiry of 180 days. The submission of the SRA that modification to the resolution plan was made in exercise of power under Clause 3.7.1 is not correct. Revised plan having been approved after expiry of statutory period, the resolution plan ought not to have been approved by the adjudicating authority. Adjudicating authority erred in approving the resolution plan, which having been approved after expiry of 180 days.

6. Learned counsel appearing for the appellant in Comp. App. (AT) (Ins.) No. 1317/2025 submits that the resolution plan has been approved in violation of Section 30(2)(b) of the IBC, Regulation 36(4)(a)(iii) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Section 53 of the IBC. It is submitted that Section 30 of the IBC implies the expression "fair and equitable". The payment of financial creditors in the resolution plan are in the range of about 60%, whereas total pay out for the operational creditors including employees is only Rs.1 crore/- which is negligible without any intelligible differentia, rational or classification. The above provision of resolution plan is contrary to the scheme of the IBC and defeats the statutory authorisation embodied under Section 53. Provident fund and gratuity dues are trust money and the plan fails to provide a full payment of provident fund and gratuity to current employees.

7. Learned counsel appearing for the SRA refuting the submissions of the appellant submits that the resolution plan approved by the CoC and approved

by the adjudicating authority is in compliance with Section 30(2) of the IBC. Replying to the submissions of Ms. Pinki Anand learned Sr. counsel for the appellant, it is submitted that the resolution plan submitted by SRA was approved within 180 days from the commencement of the CIRP. It is submitted that CIRP commenced against the corporate debtor vide order dated 30.09.2024 and the CoC in its 10th CoC Meeting held on 19.02.2025 and 21.02.2025 has approved the resolution plan. When the resolution plan was approved by the CoC within 180 days, there is no occasion for filing any application for extension of CIRP period. The RP also within the period of 180 days has filed an application I.A. (IBC) (Plan) No. 29/2025 on 11.03.2025 thus there is no question of approval of plan being beyond 180 days as contended by learned Sr. counsel appearing for the appellant in Comp. App. (AT) (Ins.) No. 1281/2025. Insofar as the modification dated 01.04.2025 proposed by the SRA and approved by the CoC on 01.04.2025, the same was in exercise of liberty reversed in Clause 3.7.1 of the resolution plan which liberty was there with the SRA even after approval of the resolution plan by the NCLT. The modification dated 01.04.2025 did not in any manner altered the amount receivable by stakeholders under the resolution plan. The submission of the counsel for the appellant in Comp. App. (AT) (Ins.) No. 1281/2025 that plan has been approved beyond CIRP period is misconceived. Adjudicating authority after considering all relevant facts have rightly approved the resolution plan.

8. Replying to the submission made by counsel for the appellant in Comp. App. (AT) (Ins.) No. 1317/2025, it is submitted that pay out to all the

operational creditors including the employees of Rs.1 crore/- is in accordance with Section 30(2) of the IBC. It is submitted that liquidation value of the corporate debtor was Rs. 1263.50 crore/-, whereas, admitted claim of all creditors was Rs.6,753.92 crore/-. Liquidation value of the corporate debtor was not even sufficient to satisfy the claims of the financial creditors of Rs.66,200.03 crore/-, hence the liquidation value of the operation creditor was NIL. Under Section 30(2) of the IBC, operational creditors are entitled an amount not less than the liquidation value which they would have received as per distribution under Section 53. Payment of Rs. 1 crore/- to the operational creditors including the employees does not violate the provision of Section 30(2). The amount of PF and gratuity has been paid in full. The adjudicating authority has clearly directed in paragraph 12.12 to pay the entire amount of gratuity and PF dues which shall not subject to outer limit of Rs.1 crore/-. Thus, full PF and gratuity are to be paid and no grievance can be raised in that regard.

9. Learned counsel for the RP supported the impugned order and submitted that resolution plan was approved in the 10th CoC Meeting held on 19.02.2025 and 21.02.2025 which was well within 180 days period. The CIRP having commenced on 30.09.2024, 180 days period was to continue till 28.03.2025 and well within the said period. Application for approval of the plan was filed on 11.03.2025, thus the submission of the appellant that there is a breach of Section 12(1) in CIRP process is wholly incorrect and misconceived. As far as the modification dated 01.04.2025 undertaken by the SRA and approved by the CoC was in exercise of power reserved for the

SRA under the resolution plan and that in no manner violates the timeline under Section 12(1) of the IBC. The resolution plan fully complies with provisions of Section 30(2) of the IBC.

10. We have considered the submissions of the counsel for the parties and perused the records.

11. We need to first notice the submission raised by the counsel for the appellant in Comp. App. (AT) (Ins.) No. 1317/2025 regarding violation of timelines under Section 12(1) of the IBC. Section 12(1) of the IBC provides for time limit for completion of insolvency resolution process. Sections 12(1) & 12(2) of the IBC are as follows:

> ***"12. Time-limit for completion of insolvency resolution process.–***
>
> *(1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.*
>
> *(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of [1][sixty-six] per cent. of the voting shares."*

12. In the present case, the CIRP commenced against the corporate debtor vide order dated 30.09.2024. 180 days period thus was to come to an end on 28.03.2025. The 10th CoC Meeting was held on 19.02.2025 for consideration and voting of final signed resolution plan which approved the resolution plan of the respondent No. 2. LoI was issued to SRA on 24.02.2025 and SRA submitted performance security on 27.02.2025. Adjudicating authority by

the impugned order in paragraph 2.18 has noticed on which date the final signed resolution plan were voted. RP has also filed an additional affidavit dated 27.03.2025 before the adjudicating authority. It was pleaded that CoC in its commercial wisdom approved the plan within prescribed period of 180 days and no extension for CIPR period was sought. Adjudicating authority in paragraph 7.3 of the impugned order has noticed the additional affidavit dated 08.05.2025, where following was stated:

> *"… In the present case, since the offers were received from the market leaders in the field of power generation, such as NTPC, Adani Power and Vedanta, the COC in its commercial wisdom was able to approve the plan within the prescribed period of 180 days, and no extension for CIRP period was sought."*

13. The minutes of the 10th CoC Meeting held on 19.08.2025 and 21.02.2025 were part of the application which was filed for approval of the resolution plan. As noted above, the 180 days period was expiring on 28.03.2025, whereas, resolution plan was approved on 19.02.2025 and 21.02.2025 in 10th CoC Meeting and thereafter LoI was also issued on 24.02.2025 to SRA. LoI came to be accepted by 24.02.2025 and performance security was submitted on 27.02.2025. In paragraph 2.19 of the impugned order, adjudicating authority has noticed the above facts, which are as follows:

> *"2.19 Accordingly, the members of the CoC casted their votes on the submitted resolution plans and unanimously approved the Resolution Plan of Adani Power Limited, declaring it as the SRA. Thereafter, the applicant issued the Letter of Intent ('LOI') dated 24.02.2025 to the SRA wherein the SRA was called upon to submit the Performance Security of INR 100 crores within three business days from the issuance of LOI as per Clause 3.3 of the RFRP. The LOI came to be*

accepted by the SRA on 24.02.2025 and the Performance Security was submitted by it on 27.02.2025."

14. When the resolution plan was approved and the LoI was issued on 24.02.2025 which was accepted on 24.02.2025 and performance security was also deposited on 27.02.2025, the submission of the appellant that CIRP has completed within 180 days is unfounded. There was no requirement for extension of CIRP period since plan stood approved.

15. The next leg of submission on which reliance is placed by the appellant is that SRA modified his resolution plan on 01.04.2025 and the CoC on 01.04.2025 itself has approved the modification, hence the said modification was beyond 180 days and could not have been approved. The SRA has filed an affidavit in the present appeal in Comp. App. (AT) (Ins.) No. 1281/2025, where relevant facts have been pleaded. SRA has relied on Clause 3.7.1 of the resolution plan which relate to acquisition structure. Clause 3.7.1(ii) extracted in paragraph 12 of the short affidavit of the SRA which is as follows:

"3.7.1 The structure proposed may, at the Resolution Applicant discretion, but without altering the amounts receivable by any stakeholder of the Corporate Debtor and timelines as envisaged under the Resolution Plan for making such payments, be altered from time to time, by the Resolution Applicant at its discretion with the approval of the CoC or the Implementation and Monitoring Committee, as the case may be, and such alteration may include but not be limited to:

(ii) Identifying such other source of funds for funding the Total Resolution Amount including by way of borrowings or equity infusion from any Person into the Resolution Applicant or the Corporate Debtor (provided each such Person is eligible under Section 29A of the Code to be resolution applicant);"

16. The above clause in the end contains *"any such alteration or modification to the acquisition structure as contemplated above shall not require any further actions, deed or notice and shall have the same binding effect as the resolution plan."* The resolution which was approved on 19.02.2025 and 21.02.2025 contains the above clause which reserves right of the SRA to alter or modify the acquisition structure which did not require any further action and the same was to be done at discretion of the SRA with approval of the CoC or the implementation and Monitoring Committee as the case may be, which is clearly contemplated in Clause 3.7.1. When resolution applicant was entitled to alter the acquisition structure with the approval of the CoC or with the approval of the implementation in Monitoring Committee, the said alteration was clearly permissible even after the approval of the resolution plan. Thus, exercise of right by SRA under Clause 3.7.1 which was part of the approved resolution plan of the CoC in no manner be said to be beyond the timelines as fixed in Section 12(1) of the IBC. Approved resolution plan having already been submitted before the adjudicating authority on 11.03.2025 by the application of RP, no violation of timelines can be contended and the modification in the acquisition structure undertaken on 01.04.2025 and approved by the CoC on 01.04.2025 and placed before the adjudicating authority on 02.04.2025 cannot be said to be violating any timeline as prescribed under Section 12(1) of the IBC and the resolution plan stood approved in 10th CoC Meeting on 19.02.2025 and 21.02.2025 well within 180 days period of commencement of CIRP. We thus do not find any substance in the submission advanced by the counsel for the appellant in Comp. App. (AT) (Ins.) No. 1281/2025.

17. Now coming to the submissions raised by the learned counsel for the appellant in Comp. App. (AT) (Ins.) No. 1317/2025 which is an appeal filed by one employee claiming to be representative of the employees challenging the approval of the resolution plan. The impugned order has noticed the amount claimed and amount admitted of different stakeholders and the amount proposed in the resolution plan. Paragraph 6.1 of the impugned order captures the salient features of plan approved by the CoC. Paragraph 6.1 is as follows:

> *"6.1 The SRA has proposed a Total Resolution Amount of INR 4000,00,00,000/- (Rupees Four Thousand Crores only) for the resolution of the Corporate Debtor in the following manner:*

Sr. No.	***Category of Stakeholder ****	***Sub-Category of Stakeholder***	***Amount Claimed***	***Amount Admitted***	***Amount Provided under the Plan***	***Amount Provided to the Amount Admitted (%)***
1.	*CIRP Cost (Estimated Accrued and Unpaid)*	*N.A.*	*-*	*-*	*292,91,00,000*	*-*
2.	*Secured Financial Creditors*	*(b)(ii) who voted in favour of the resolution plan*	*6200,04,83,387*	*6200,03,83,837*	*3706,09,00,000*	*59.78%*
3.	*Unsecured Financial Creditors*	*N.A.*	*-*	*-*	*-*	*-*
4.	*Operational Creditors*	*(b)(ii) Employees*	*8,99,34,232*	*5,26,15,968*	*1,00,00,000*	*0.18%*
		(b)(iv) Other Operational Creditors	*564,13,35,217*	*548,62,27,485*		
		Sub-Total	*569,63,35,136*	*553,88,43,453*	*1,00,00,000*	*0.18%*
5.	*Other debts and dues*	*-*	*-*	*-*	*-*	*-*
Total			***67,73,17,52,836/-***	***67,53,92,26,840/-***	***4000,00,00,000/-***	

18. The challenge in the appeal is with regard to pay out to the operational creditors which include the employees. Employees claim which was admitted for Rs.5,26,15,968/- and another claim of other operational creditor was

Rs.5,48,62,27,485/- against total admitted claim of the operational creditor of Rs.553,88,43,453/-, amount of Rs. 1 crore/- has been proposed in the resolution plan. It is brought on the record that the liquidation value of the corporate debtor was Rs.1263.50 crore/- and total admitted claim was Rs.6,753.92 crore/-. In paragraph 15 of the short affidavit filed by SRA, the above facts has been noticed. Paragraph 15 of the short affidavit is as follows:

> *"15. It is humbly submitted that the average liquidation value of the Corporate Debtor was Rs. 1263.50 crores, which was much less than the total admitted claims of Rs. 6753.92crores. It is apparent that the liquidation value of the Corporate Debtor was not even sufficient to fulfil the claims of Rs. 6200.03 crores of Financial Creditors, as such, the Operational Creditors were entitled to receive NIL amount."*

19. Under Section 30(2) of the IBC, operational creditors are entitled to receive the amount which is not less than the amount payable to the operational creditor in the event of the liquidation of the corporate debtor under Section 53. Section 30(2)(b) of the IBC provides as follows:

> ***"30. Submission of resolution plan.–***
>
> *(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—*
>
> *(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-*
>
> > *(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or*
> >
> > *(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher and provides for the payment of debts of financial creditors, who do not vote in favour of the*

> *resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor."*

20. In event, the liquidation of the corporate debtor as per Section 53, the liquidation value of the operational creditors including employees being NIL under Section 30(2)(b) no amount was mandated. The payment of Rs. 1 crore/- thus cannot be said to be in any manner in breach the provisions of Sections 30(2)(b) of the IBC.

21. Learned counsel for the appellant has contended that as per Section 30(2)(b), the distribution has to be fair and equitable.

22. Learned counsel for the SRA has relied on the judgment of the Hon'ble Supreme Court in the matter of ***'CoC of Essar Steel India Ltd.' Vs. 'Satish Kumar Gupta & Ors.'*** reported in **[(2020) 8 SCC 531],** where Hon'ble Supreme Court had occasion to consider the argument of equal distribution between different stakeholders of the corporate debtor. Hon'ble Supreme Court in the above judgment has clearly held that financial and operational creditors are not mandated to pay the same amount in any resolution plan. Difference in payment of the debts of the financial creditor and operational creditor is clearly contemplated. In paragraph 88 of the judgment, following was laid down:

> ***"88.*** *By reading para 77 (of Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17]) dehors the earlier paragraphs, the Appellate Tribunal has fallen into grave error. Para 76 clearly refers to the Uncitral Legislative Guide which makes it clear beyond any doubt that equitable treatment is only of similarly situated creditors. This being so, the observation in para 77 cannot be read to mean that*

financial and operational creditors must be paid the same amounts in any resolution plan before it can pass muster. On the contrary, para 77 itself makes it clear that there is a difference in payment of the debts of financial and operational creditors, operational creditors having to receive a minimum payment, being not less than liquidation value, which does not apply to financial creditors. The amended Regulation 38 set out in para 77 again does not lead to the conclusion that financial and operational creditors, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of operational creditors' rights under the said regulation involves the resolution plan stating as to how it has dealt with the interests of operational creditors, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. Also, the fact that the operational creditors are given priority in payment over all financial creditors does not lead to the conclusion that such payment must necessarily be the same recovery percentage as financial creditors. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors."

23. The Hon'ble Supreme Court in paragraph 90 has held that equality principle cannot be stretched to treating unequal equally. In paragraph 90, following was laid down:

"90. *…Quite clearly, secured and unsecured financial creditors are differentiated when it comes to amounts to be paid under a resolution plan, together with what dissenting secured or unsecured financial creditors are to be paid. And, most importantly, operational creditors are separately viewed from these secured and unsecured financial creditors in Sl. No. 5 of Para 7 of statutory Form H. Thus, it can be seen that the Code and the Regulations, read as a whole, together with the observations of expert bodies and this Court's judgment, all lead to the conclusion that the equality*

> *principle cannot be stretched to treating unequal equally, as that will destroy the very objective of the Code — to resolve stressed assets. Equitable treatment is to be accorded to each creditor depending upon the class to which it belongs: secured or unsecured, financial or operational."*

24. Operational creditors are statutorily entitled to receive the amount as provided under Section 30(2)(b) of the IBC. No case has been pleaded or proved by the appellant that amount paid in the plan to the operational creditors including employees is in violation of Section 30(2)(b) of the IBC i.e., and the appellants were entitled for some monitory statutory payment under Section 30(2)(b) of the IBC which is more than the amount as provided in the resolution plan. Insofar as submission of the counsel for the employees that the full amount of provident fund and gratuity is not paid, we need to refer paragraph 12.12 of the impugned order, where adjudicating authority while approving the plan has provided as follows:

> *"12.12 We also hereby make it clear that the Employees Provident Fund dues of INR 24,83,544/- and the Gratuity dues of INR 30,55,049/-, as provided by the Applicant in the Annexure 'B' to the additional affidavit dated 02.04.2025, being the statutory dues, are required to be paid in full and the same shall not be subject to the outer limit of INR 1 crores earmarked by the SRA in the Resolution Plan for the Operational Creditors including the Employees."*

25. As per the impugned order of the adjudicating authority, the employees are entitled for provident fund dues and the gratuity dues which is required to be paid in full and same shall not be subject to the outer limit of Rs.1 crore/- earmarked by the SRA in the resolution plan. Thus, entitlement of the employees to receive full provident fund and gratuity is fully protected

by above clause. Thus, the submission of the appellant that employees are not being paid their full provident fund and gratuity cannot be accepted.

26. In view of the foregoing discussions, we are of the view that the pay outs to the operational creditor including the employees cannot be said to be violating the provisions of Section 30(2)(b) of the IBC. Appellants have not been able to prove any other violation in the approval of the resolution plan.

27. In view of the foregoing discussions, we are of the view that no grounds have been made out to interfere with the order impugned approving the resolution plan submitted by respondent No. 2.

28. In result, both the appeals are dismissed.

Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

16th January, 2026

himanshu