

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No.1521 of 2025**

(Arising out of Order dated 26.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench-IV in IA-88/MB/2024 in CP(IB)-1337/MB/2020)

**IN THE MATTER OF:**

**The Committee of Creditors of Nirmal Lifestyle (Kalyan) Pvt. Ltd., Through Assets Care and Reconstruction Enterprise Ltd.**

**...Appellant(s)**

**Versus**

**Shailendra Ajmera, RP of Nirmal Lifestyle (Kalyan) Pvt. Ltd. & Anr.**

**...Respondent(s)**

**Present:**

**For Appellants** : Mr. Krishnendu Datta, Sr. Advocate with Mr. Dheeraj Nair, Ms. Varghise Thomas, Ms. Aditi Deshpande, Mr. Angad Baxi, Ms. Aparna Singh, Mr. Disney Chitala, Mr. Harsh Gurbani, Mr. Harshit Chaudhary, Mr. Yash Tandon, Advocates.

**For Respondents** : Mr. Amir Arsiwala, Mr. Dhananjay Kumar, Ms. Srideep Bhattacharyya, Mr. Anush Mathkar, Mr. Mehul Kumar, Ms. Aparajita, Advocates for RP.  
Mr. Pranjit Bhattacharya, Ms. Salonee Shukla, Mr. Sachin Jain, Advocates

**With**

**Company Appeal (AT) (Insolvency) No.1491 of 2025**

(Arising out of Order dated 26.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench-IV in IA-88/MB/2024 in CP(IB)-1337/MB/2020)

**IN THE MATTER OF:**

**The Consortium of Dharmesh Jain, Prakruti Nirman Development Pvt Ltd, Right Choice Housing Pvt Ltd, And Nirmal Events 2 Excellence Pvt Ltd.**

**...Appellant(s)**

**Versus**

**Shailendra Ajmera & Ors.**

**...Respondent(s)**

**Present:**

**For Appellant** : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Aayush Agarwala, Mr. Anuj P. Agarwala, Mr. Prakash Jha, Advocates.

**For Respondents** : Mr. Amir Arsiwala, Mr. Dhananjay Kumar, Ms. Srideep Bhattacharyya, Mr. Anush Mathkar, Mr. Mehul Kumar, Ms. Aparajita, Advocates for RP.  
Mr. Asav Rajan, Mr. Kashish Chadha, Mr. Aditya Shah, Advocates for Homebuyers (IA No.6321/2025).

**With**

**Company Appeal (AT) (Insolvency) No.1518 of 2025**

(Arising out of Order dated 26.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench-IV in IA-88/MB/2024 in CP(IB)-1337/MB/2020)

**IN THE MATTER OF:**

**Deepak Sudhir Keluskar & Anr.** **...Appellant(s)**

**Versus**

**Shailendra Ajmera & Ors.** **...Respondent(s)**

**Present:**

**For Appellant** : Mr. Gaurav Mitra, Mr. Shashank Khurana, Advocates.

**For Respondents** : Mr. Amir Arsiwala, Mr. Dhananjay Kumar, Ms. Srideep Bhattacharyya, Mr. Anush Mathkar, Mr. Mehul Kumar, Ms. Aparajita, Advocates for RP.  
Mr. K. Datta, Sr. Adv. with Angad Baxi, Apurva Singh, Devashish V., Adv. for CoC

**With**

**Company Appeal (AT) (Insolvency) No.1605 & I.A. No.6301 of 2025**

(Arising out of Order dated 26.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench-IV in IA-88/MB/2024 in CP(IB)-1337/MB/2020)

**IN THE MATTER OF:**

**Nandakumar Chavan & Ors.** **...Appellant(s)**

**Versus**

**The Consortium of Dharmesh Jain & Ors.** **...Respondent(s)**

**Present:**

**For Appellant** : Mr. Rajesh Kumar Gautam, Azal Ackram, Deepanjal Chaudhary, Adv.

**For Respondents** : Mr. Amir Arsiwala, Mr. Dhananjay Kumar, Ms. Srideep Bhattacharyya, Mr. Anush Mathkar, Mr. Mehul Kumar, Ms. Aparajita, Advocates for RP.  
Mr. Pranjit Bhattacharya, Ms. Salonee Shukla, Mr. Sachin Jain, Adv.

## **J U D G M E N T**

### **Ashok Bhushan, J.**

These four Appeal(s) have been filed against the same order dated 26.08.2025 passed by National Company Law Tribunal, Mumbai Bench-IV in IA-88/MB/2024 filed under Section 30, sub-section (6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**IBC**”). By the impugned order, the Adjudicating Authority has rejected IA-88/MB/2024 filed for approval of Resolution Plan submitted by the Consortium of Dharmesh Jain, Prakruti Nirman Development Pvt. Ltd., Right Choice Housing Pvt. Ltd. and Nirmal Events and directed to take further steps in accordance with the Code for initiating the liquidation of the Corporate Debtor (“**CD**”).

2. Company Appeal (AT) (Ins.) No.1521 of 2025 has been filed by the Committee of Creditors (“**CoC**”) of the CD, who had approved the Resolution Plan by 89.2% vote shares, challenging the impugned order. Company Appeal (AT) (Ins.) No.1491 of 2025 has been filed by the Consortium of Dharmesh Jain whose Resolution Plan has been rejected by the impugned order. Company Appeal (AT) (Ins.) No.1518 of 2025 has been filed by Deepak Sudhir Keluskar & Anr., who are aggrieved homebuyers, filed the Appeal challenging

the order dated 26.08.2025 praying for quashing the impugned order. Company Appeal (AT) (Ins.) No.1605 of 2025 is filed by 21 homebuyers being aggrieved against the impugned order dated 26.08.2025, only to the extent that Adjudicating Authority has directed for initiation of liquidation proceedings. The Appellant seeks setting aside of order dated 26.08.2025 and prays for publication of fresh Form-G and certain other prayers. All the Appeal(s) having arisen out of same set of facts and events, it shall be sufficient to refer to pleadings in Company Appeal (AT) (Ins.) No.1521 of 2025 for deciding all the Appeal(s)

3. Brief facts of the case giving rise to these Appeal(s) are:

- (i) A Section 7 Application has been filed by SREI Equipment Finance Ltd. (the Financial Creditor) against the CD – Nirmal Lifestyle (Kalyan) Pvt. Ltd., which came to be admitted by the Adjudicating Authority vide order dated 16.06.2022. On 20.06.2022, public announcement was made, inviting creditors to submit their proof of claims by 01.07.2022.
- (ii) Appeal(s) challenging admission order, came to be dismissed on 04.01.2023.
- (iii) Thereafter, the Interim Resolution Professional (“**IRP**”) constituted CoC. The CoC consisted of Financial Creditor in a class, i.e. homebuyers having 17.95% vote shares.
- (iv) In the first CoC Meeting held on 19.01.2023, Shailendra Ajmera was appointed as RP. In the second CoC Meeting held on 17.03.2023, eligibility criteria for invitation of Expression of Interest (“**EoI**”) was deliberated and was approved. Form-G was

published on 05.04.2023. On 28.04.2023, the RP issued provisional list of Prospective Resolution Applicants (“**PRAs**”). On 03.05.2023, RFRP along with detailed evaluation matrix was approved by the CoC and the IM, which was shared with the PRAs included in the provisional list. On 10.05.2023, the RP issued a final list of PRAs, which included 11 PRAs, which final list was revised on 07.06.2023, 04.09.2023 and 23.02.2024.

- (v) Form-G contained a note, empowering the CoC to extend the timelines. On request of the PRAs, timeline for submission of the Resolution Plan was extended by CoC from time to time. The RP also filed applications for extension of Corporate Insolvency Resolution Process (“**CIRP**”) before the Adjudicating Authority, which application was filed by the RP with the approval of the CoC, which extension/ exclusions were allowed by the Adjudicating Authority from time to time. 12<sup>th</sup> CoC Meeting was conducted on 24.11.2023, which decided to extend the last date for submission of Resolution Plan till 11.12.2023.
- (vi) On 14.12.2023, the RP received a letter from Bunty Properties, Unit XI proposing to submit a comprehensive Resolution Plan in the CIRP and sought additional time of 12 days. 13<sup>th</sup> CoC Meeting was held on 15.12.2023. In 14<sup>th</sup> CoC Meeting held on 29.12.2023, the CoC extended deadline for submission of Resolution Plans for further period of 32 days.
- (vii) On 17.01.2024, Bunty Properties electronically submitted a Resolution Plan without earnest money deposit and without

annexures. 15<sup>th</sup> CoC Meeting was convened on 18.01.2024, where the CoC voted to extend the last date for submission of Resolution Plan for the CD for a period of 18 days. The CoC also voted to approve the registration of the CD as an MSME. On 24.01.2024, the CD was registered as an MSME.

- (viii) On 30.01.2024, the RP team received an EoI from the Consortium of Dharmesh Jain.
- (ix) On 02.02.2024, 16<sup>th</sup> Meeting of the CoC was held where CoC authorized the RP to file an application before the Adjudicating Authority seeking extension of CIRP for a period of 60 days from the current last date of 03.02.2024 and the CoC also decided to extend the last date for submission of the Resolution Plan for the CD by a period of 16 days and to accept and evaluate the EoI submitted by the Consortium of Dharmesh Jain. The RP filed an application for extension of 60 days.
- (x) In the 17<sup>th</sup> CoC Meeting held on 22.02.2024 where eligibility of Successful Resolution Applicant (“**SRA**”) was considered. It was decided to add the name of Consortium of Dharmesh Jain in the list of PRAs. Timeline for submission of Resolution Plan was further extended by 15 days. On 23.02.2024, the eligible PRAs list was revised to include 19 PRAs, which included Consortium of Dharmesh Jain.
- (xi) On 30.03.2024, the SRA submitted a Resolution Plan with EMD of Rs.5 crores. In the 18<sup>th</sup> CoC Meeting held on 02.04.2024, the CoC decided to consider the Plan received after the last date for

submission of the Plan. On 07.05.2024, in the 19<sup>th</sup> Meeting of the CoC, the Plan submitted by SRA was deliberated, who undertook to submit a revised Resolution Plan incorporating the changes suggested in the discussion. On 31.08.2024, the SRA submitted the revised Resolution Plan.

(xii) In 21<sup>st</sup> CoC Meeting held on 03.09.2024, the CoC with 100% vote shares voted to extend the CIRP till 03.09.2024. Addendum was also received from the SRA. In 22<sup>nd</sup> Meeting of the CoC held on 06.09.2024 and 09.09.2024, discussions were made in the Meeting. On 16.09.2024, the RP issued compliance letter opining that the Resolution Plan is in compliant of Section 30 sub-section (2) of the Code. The CoC voted on the Plan, which was approved with 89.2% vote shares. On 19.09.2024, Letter of Intent was issued to the SRA by the RP, which was accepted. On 30.09.2024, the Plan approval application was filed by the RP under Section 30 sub-section (6) of the Code, seeking approval of the Plan. The RP filed a revised compliance certificate in Form-H and filed Section 29-A Report prepared by the Transaction Auditor, confirming the SRA's compliance with the relevant provisions of the Code.

(xiii) On 10.12.2024, the Adjudicating Authority allowed the extension application, extending the last date for expiry of the CIRP as 30.09.2024. The Adjudicating Authority passed an order on 07.03.2025 asking the SRA to submit an affidavit clarifying the treatment of proceeds, if any, from the fraudulent transactions.

The SRA filed the affidavit in compliance of the order dated 07.03.2025. The RP filed an affidavit detailing deviations from the RFRP in the Resolution Plan and served copies to the SRA and the CoC. The Plan application was heard and reserved for orders on 19.03.2025. The Adjudicating Authority thereafter asked for clarification in respect of certain vital points on 22.04.2025. The RP filed an affidavit on 01.05.2025. Further, an additional affidavit was asked from the RP by the Adjudicating Authority vide order dated 02.05.2025, which affidavit was filed by PR on 07.05.2025.

- (xiv) On 26.08.2025, the Adjudicating Authority passed the impugned order. The Adjudicating Authority in the impugned order held that the Resolution Plan submitted by the SRA is not in compliance with Section 30 sub-section (2) of the IBC as well as Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“**CIRP Regulations**”). The Adjudicating Authority also held that the SRA did not fulfil the eligibility criteria. It was held that the name of SRA was not included in the final list of PRAs circulated on 10.05.2023, hence, the EoI of the Resolution Plan of the SRA is in violation of Regulation 36A(6). The CoC had granted several relaxations from the provisions of RFRP to SRA without giving the same benefit to all other PRAs in the final list. The Adjudicating Authority recorded following conclusion in Paragraph 10.5

“10.5 Based on the above discussions, we conclude that (a) the Resolution Plan submitted for approval of this Tribunal does not meet all the criteria laid down in sub-section (2) of Section 30 of the Code read with Regulations 36A and 39 of the CIRP Regulations on account of its contravention of provisions of the law and non-conformity to the requirements specified by 1881; (b) there has been material irregularity in the CIRP including expiry of CIRP period; and (c) the other irregularities noted in the Resolution Plan as discussed above.”

(xv) The Adjudicating Authority dismissed the IA. The RP was also directed to take further steps in accordance with the Code for initiating the liquidation of the CD. Aggrieved by which order these Appeal(s) have been filed.

4. In Company Appeal (AT) (Ins.) No.1491 of 2025 an IA No.6321 of 2025 has been filed by Nirmal Welfare Association seeking intervention. In the application, Nirmal Welfare Association sought leave to intervene in the Appeal and has prayed for direction to conduct the CIRP from the stage of inviting EoI.

5. We have heard Shri Krishnendu Datta, learned Senior Counsel appearing for the CoC in Company Appeal (AT) (Ins.) No.1521 of 2025; Shri Abhijeet Sinha, learned Senior Counsel appearing for the Appellant in Company Appeal (AT) (Ins.) No.1491 of 2025 filed by the SRA; Shri Gaurav Mitra, learned Counsel has appeared for homebuyers in Company Appeal (AT) (Ins.) No.1518 of 2025; Shri Rajesh Kumar Gautam, learned Counsel has appeared for the Appellant – homebuyers in Company Appeal (AT) (Ins.) No.1605 of 2025; Shri Asav Ranjan, learned Counsel has appeared for

homebuyers in IA No.6321 of 2025; and Shri Amir Arsiwala, learned Counsel has appeared for the RP.

6. Shri Krishnendu Datta, learned Senior Counsel appearing for the CoC challenging the impugned order submits that the order of Adjudicating Authority holding that Resolution Plan of the SRA is not in compliance with Section 30 sub-section (20) and CIRP Regulations is incorrect and erroneous. It is submitted that finding of the Adjudicating Authority that name of the SRA was not included in the final list of PRAs published on 10.05.2023, hence, the SRA could not have been considered, is erroneous. It is submitted that Form-G itself contained a Note-2, which authorised the CoC to extend timelines at its sole discretion. Exercising its commercial wisdom, the CoC resolved to entertain several late EOI's including SRA's EoI. The CoC in its different Meetings from time to time extended the timelines. The final list of PRAs for inclusion of the SRA was approved in the 16<sup>th</sup> CoC Meeting held on 02.02.2024. Inclusion of the SRA in the final list of PRAs was with the resolution of the CoC as per the Form-G itself. The extension of timelines for receiving the EoIs and Resolution Plans is not modification of the terms and conditions of the Form-G, hence, no fresh Form-G was required to be issued. The view of the Adjudicating Authority that fresh Form-G was required to be issued and without fresh Form-G, the SRA's Plan could not have been considered is not in accordance with law. When only timelines are extended by the CoC without altering IEOI substantive terms, no fresh Form-G was required. The Adjudicating Authority has made observations with regard to eligibility of SRA, whereas the SRA was fully eligible. Net-worth Certificate by Chartered Accountant of Rs.100 crores, tangible net worth was submitted,

which was deliberated and approved by the CoC, holding the SRA as eligible. A Report was also obtained with regard to eligibility of the SRA, which also found SRA eligible. The CoC after having considered all aspect of the eligibility, it was not open for the Adjudicating Authority to hold the SRA not eligible. It is submitted that there was no Resolution Plan received in the CIRP by any Resolution Applicant, whereas initially 17 Resolution Applicants had submitted EoIs and only one incomplete Resolution Plan was received from Bunty Properties, who did not submit EMD. In spite of extension of time on several occasions by the CoC, no other Resolution Plan came for consideration. The project, which was being undertaken by the CD was large real-estate project and the CoC with majority of 89.2% vote shares has approved the Plan, which would have definitely saved the CD from liquidation. Insofar as observation of the Adjudicating Authority that there were various deviations in the Resolution Plan with regard to provision of performance security, it is submitted that Clause 2.17.2 of RFRP expressly authorise CoC to revise the performance security terms, i.e. quantum, form, validity at its discretion. There is no violation of Regulation 36B(4A). The observation of Adjudicating Authority that in composition of the Monitoring Committee, homebuyers' representative has not been included, is not in breach of any requirement. The observation of Adjudicating Authority that CoC lack authority to approve RFRP deviations on Section 66 transaction proceeds, Clause 3.1.8 of RFRP specifically empowers the CoC to waive Clause 3.1.4 requirements. The Resolution Plan was not conditional Resolution Plan. The Adjudicating Authority also has factually erred in observing that Resolution Plan was not filed within the CIRP period. An application was filed in

30.09.2024 for extension of time, which was allowed on 10.12.2024 by the Adjudicating Authority extending the period till 30.09.2024, hence, the Resolution Plan was approved within the timeline.

7. Shri Abhijeet Sinha, learned Senior Counsel appearing for the SRA submits that extension of timeline is in exercise of CoC's commercial wisdom. Although 11 PRAs had initially submitted the EoI, no eligible Resolution Plan was received and only Plan submitted by Bunty Properties on 17.01.2024, was incomplete and unaccompanied by earnest money deposit. In the 16<sup>th</sup> CoC Meeting, the EoI submitted by the SRA was duly considered and accepted and pursuant to the direction of the CoC, final list of PRAs was amended by the RP, which included the name of SRA. Thus, the observation of the Adjudicating Authority that name of the SRA was not included in the final list of PRAs, is not correct. The CoC had expressly reserved its power to extend the timelines for submission of the Plan as reflected in Note-2 in Form-G. It is submitted that SRA was fully eligible and it has submitted net-worth certificate of more than Rs.100 crores duly certified by a Chartered Accountant. The CD was duly registered as an MSME. It is submitted that the SRA is fully competent to undertake the completion of the project. A sanction letter was received from Swamih Fund, which sanction although lapsed, but shall be revived by the SRA, which has granted its in-principle approval for extending financial support for completion of the project.

8. Shri Gaurav Mitra, learned Counsel appearing for homebuyers in Company Appeal (AT) (Ins.) No.1518 of 2025 submits that this Appeal has been filed by two homebuyers with letters of support of approximately 1500-

2000 homebuyers, who challenged the judgment dated 26.08.2025. The Appellants in Company Appeal (AT) (Ins.) No.1518 of 2025 support the approval of the Resolution Plan of the SRA and are aggrieved by the rejection of the Resolution Plan. Through Authorized Representatives, the homebuyers have voted in favour of the Resolution Plan and it is only two splinter groups of homebuyers, who are pressing for rejection of the Resolution Plan. One splinter group is Nirmal Welfare Association and second splinter group is 20 homebuyers, who had filed Company Appeal (AT) (Ins.) No.1605 of 2025. It is submitted that marginal 200 homebuyers, cannot imperil the interest of 2000 homebuyers. When the Plan has been approved by the homebuyers, who have voted through Authorized Representatives for approval of the Resolution Plan, no minority homebuyers can argue against the majority decision taken by the homebuyers approving the Resolution Plan. In case the CD goes for liquidation, it is unlikely that the homebuyers will get possession or refund of the amounts paid. In three buildings the Occupation Certificate has been received and for another six buildings, the Occupation Certificate has been applied for. The SRA is backed by the promoter of the CD, who has resources to get the project completed. No other entity has come forward by filing any Resolution Plan to complete the project.

9. Shri Rajesh Kumar Gautam, learned Counsel appearing for the Appellants in Company Appeal (AT) (Ins.) No.1605 of 2025 submits that the Appellants have challenged the order to the limited extent by which it directed for starting liquidation process of the CD. It is submitted that the Appellants are against any liquidation of the CD, which is a real-estate project and Appellants prayer is that a fresh Form-G be issued inviting fresh EoIs, which

may elicit better proposal for completion of the project. Shri Gautam submits that there are fundamental deficiencies in the resolution process as noted by the Adjudicating Authority. The CIRP was conducted in derogation of the statutory framework governing transparency and equal treatment. Selective waiver of earnest money deposit with regard to performance security has been granted. The Resolution Plan submitted by SRA was not in compliance with Section 30 sub-section (2). The Appellants pray that homebuyers have been waiting for their homes from 2009. This is a fit case where this Tribunal direct for issuance of fresh Form-G to maximize the value of the CD and to ensure that the project is handed over to some genuine SRA, who is inclined and willing to complete the project.

10. Learned Counsel appearing for Nirmal Welfare Association supported the impugned order and submits that CIRP suffers from grave procedural violations and acts of preferential treatment favouring SRA including the unlawful acceptance of belated EoI submitted by SRA on 30.01.2024 was in violation of Regulation 36A(6) of the CIRP Regulations. The SRA was not part of final list of PRAs and was wrongly permitted to submit Resolution Plan, which is in violation of Regulation 39(1B) of the CIRP Regulations. Nirmal Welfare Association has raised their objections time and again. The Applicant has direct and legal interest in the Appeal and hence is entitled to intervene. Entire process culminating into approval of Resolution Plan suffers from various irregularities, violations and procedural irregularities. The Resolution Plan has rightly been rejected by the Adjudicating Authority. The SRA is not entitled to complete the project. The sanction letter received from Swamih Fund has already lapsed and there is nothing on record that SRA shall receive

funds from Swamih Fund for completing the project. There were several deviations from RFRP. The mandatory performance security of Rs.30 crores was not deposited by the SRA. There was deliberate non-cooperation by ex-promoters.

11. We have considered the submissions of learned Counsel for the parties and have perused the records. Learned Counsel for the parties in support of their respective submissions have relied on various judgments of this Tribunal, which we shall refer to while considering the submissions in detail.

12. The Adjudicating Authority after elaborately noticing the submissions of parties in reference to Plan approval application i.e. IA-88/MB/2024, returned its finding in Paragraph 10 of the judgment. The conclusions have been recorded in Paragraph 10.5 of the impugned order. The conclusions contain three main reasons given by the Adjudicating Authority for rejecting the Plan approval application, they are:

“10.5(a) the Resolution Plan submitted for approval of this Tribunal does not meet all the criteria laid down in sub-section (2) of Section 30 of the Code read with Regulations 36A and 39 of the CIRP Regulations on account of its contravention of provisions of the law and non-conformity to the requirements specified by 1881;

(b) there has been material irregularity in the CIRP including expiry of CIRP period; and

(c) the other irregularities noted in the Resolution Plan as discussed above.”

13. In Paragraphs 10.1, 10.2, 10.3 and 10.4 findings have been returned by the Adjudicating Authority with regard to non-compliance of various

statutory provisions and CIRP Regulation Section 30 sub-section (2) of the IBC.

14. From the submissions, which have been made by the learned Counsel for the parties and materials on the record, following are the issues, which arose for consideration in these Appeal(s):

- (I) Whether SRA, whose name was not included in the final list of PRAs issued on 10.05.2023, could have been permitted to submit a Resolution Plan by the CoC and consideration of the Resolution Plan of the SRA by the CoC is in violation of Regulation 36A and Regulation 39 of the CIRP Regulations?
- (II) Whether the Resolution Applicant has fulfilled net-worth as provided in the eligibility criteria?
- (III) Whether the CIRP had already come to an end when Resolution Plan was approved by the CoC?
- (IV) Whether non-offering of performance security by the SRA, could be a ground to reject the Resolution Plan?
- (V) Whether CoC granted several relaxations from the provisions of RFRP to SRA, without giving the same benefit to all other PRAs in the final list?
- (VI) Whether the Resolution Plan is a conditional Resolution Plan on account of stipulation of many assumptions, such as continuance of statutory provisions and license as well as

transfer of title of the properties, regardless of Memorandum of Understanding, power of attorney and other documents executed with the land owners?

(VII) Reliefs, if any to which the Appellant(s) may be entitled?

**Question No.1**

15. The Adjudicating Authority held that the SRA's Resolution Plan was not eligible to be considered it being not included in the final list of PRAs. The Adjudicating Authority held that the Resolution Plan submitted by SRA is in violation of Regulation 36A and Regulation 39 of CIRP Regulations. We may first notice the observations and findings of the Adjudicating Authority in above regard. Paragraph-9 of the impugned order contain observations of the Adjudicating Authority. In Paragraph-9.2 Adjudicating Authority has noticed the Regulation 36A. In Paragraph-9.2, the Adjudicating Authority observed following:

**"9.2 Amendment of the final list of Prospective Resolution Applicants.**

(i) The CIRP Regulations prescribe a detailed procedure for inviting Expression of Interest by publishing Form G from interested and eligible prospective resolution applicants, preparation of provisional list of eligible prospective resolution applicants who submitted the expression of interest, and preparation of final list of prospective resolution applicants within a time frame. For ease of reference, the relevant part of the CIRP Regulations are extracted below:

"36A Invitation for Expression of Interest

- 1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the Schedule at the earliest, not later than seventy-fifth day from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.
- (2) xxxxxxxx

- (3) xxxxxxxx
- (4) The detailed invitation referred to in sub-regulation (3) shall –
- (a) specify the criteria for prospective resolution applicants, as approved by the committee in accordance with clause (h) of sub-section (2) of section 25;
  - (b) state the ineligibility norms under section 29A to the extent applicable for prospective resolution applicants;
  - (c) provide such basic information about the corporate debtor as may be required by a prospective resolution applicant for expression of interest; and
  - (d) not require payment of any fee or any non-refundable deposit for submission of expression of interest .

(5) xxxxxxxx

(6) xxxxxxxx

(7) xxxxxxxx

(8) xxxxxxxx

(9) xxxxxxxx

(10) The resolution professional shall issue a provisional list of eligible prospective resolution applicants within ten days of the last date for submission of expression of interest to the committee and to all prospective resolution applicants who submitted the expression of interest.

(11) Any objection to inclusion or exclusion of a prospective resolution applicant in the provisional list referred to in sub-regulation (10) may be made with supporting documents within five days from the date of issue of the provisional list.

(12) On considering the objections received under sub-regulation (11), the resolution professional shall issue the final list of prospective resolution applicants within ten days of the last date for receipt of objections, to the committee.

36B. Request for resolution plans. –

(1) The resolution professional shall, within five days of the date of issue of the final list under sub-regulation (12) of regulation 36A, issue the information memorandum, evaluation matrix and a request for resolution plans to every resolution applicant in the final list: Provided that where such documents are available, the same may also be provided to every prospective resolution applicant in the provisional list.

- (2) The request for resolution plans shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines.
- (3) The request for resolution plans shall allow prospective resolution applicants a minimum of thirty days to submit the resolution plan(s).
- (4) The request for resolution plans shall not require any non-refundable deposit for submission of or along with resolution plan.

(4A) The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a performance security within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such plan, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its 4[implementation schedule:

Provided that where the corporate debtor has any real estate project, the committee may relax the requirement to provide for performance security for an association or group of allottees in such real estate project, representing not less than ten per cent. or one hundred creditors out of the total number of creditors in a class, whichever is lower.

Explanation I. - For the purposes of this sub-regulation, "performance security" shall mean security of such nature, value, duration and source, as may be specified in the request for resolution plans with the approval of the committee, having regard to the nature of resolution plan and business of the corporate debtor.

Explanation II. - A performance security may be specified in absolute terms such as guarantee from a bank for Rs. X for Y years or in relation to one or more variables such as the term of the resolution plan, amount payable to creditors under the resolution plan, etc.

- (5) Any modification in the request for resolution plan or the evaluation matrix issued under sub-regulation (1), shall be deemed to be a fresh issue and shall be subject to timeline under sub-regulation (3).

Provided that such modifications shall not be made more than once.

- (6) The resolution professional may, with the approval of the committee, extend the timeline for submission of resolution plans.
- (7) The resolution professional may, with the approval of the committee, re-issue request for resolution plans, if the

resolution plans received in response to an earlier request are not satisfactory, subject to the condition that the request is made to all prospective resolution applicants in the final list: Provided that provisions of sub-regulation (3) shall not apply for submission of resolution plans under this sub-regulation.] (emphasis added)

- (ii) In this case, the Applicant issued Form G to invite EOI on 05.04.2023 specifying 26.04.2023 as the last date for submission of EOI. In response to the same, the Applicant received 14 (fourteen) EOIs, out of which 3 (three) were found to be ineligible and 11 (Eleven) EOIs were found to qualify for the final list of PRAs. The final list of eligible Prospective Resolution Applicants (PRAs) was prepared on 10.05.2023. This was subsequently amended on 07.06.2023, 04.09.2023, and 23.02.2023 to include additional EOIs, including the one submitted by Nirmal Consortium, which was submitted after finalisation of the original final list of PRAs.
- (iii) It is pertinent to observe that the CIRP Regulations mandates the preparation of the provisional list of eligible prospective resolution applicants, calling for objections to the inclusion or exclusion of a prospective resolution applicant in the provisional list of resolution applicants. After considering the objections received, the resolution professional shall issue a final list of PRAs. The Nirmal Consortium did not appear in the provisional list of PRAs or in the original final list of PRAS prepared by the Applicant. As per the CIRP Regulation no applicant can appear in the final list of PRAs without first being in the provisional list of PRAs and following the prescribed procedure. In case no resolution plan worthy of consideration is received from the PRAs appearing in the final list, the option available under the CIRP Regulations is to go for inviting fresh EOI in Form G. It appears that no fresh Form G was issued in the present matter.
- (iv) Regulation 36A (6) specifies that the EOI received after the time specified in the invitation for expression of interest shall be rejected. Therefore, we find no merit in the argument that CoC has the sole discretion to include new EOIs after the last date and finalisation of the final list of PRAs. The CIRP Regulations clearly prohibit the consideration of any EOI received after the specified date.

Additionally, Regulation 39 (1 B) of the CIRP Regulations stipulates that the CoC shall not consider any Resolution Plan received from a person who does not appear in the final list of PRAs. The final list of PRAs dated 10.05.2023 does not contain the name of the Nirmal Consortium, and hence the Resolution Plan received from Nirmal Consortium cannot be treated as from a person who appears in the final list of PRAs.

16. Learned Counsel for the CoC and SRA have contended that the EoI submitted by the SRA was although after the timelines, but the CoC was fully

entitled to extend the timelines as per Form-G itself and the timelines having been extended and the CoC in its resolution has approved the consideration of the EoI submitted by SRA, the Plan cannot be held in violation of Regulation 36A. We need to first consider the sequence of events and steps taken by the RP and the CoC in the CIRP to answer the above question.

17. Form-G was published by the RP on 05.04.2023. It is useful to extract the entire Form-G, which is filed as Annexure A-4 to the Appeal, which is as follows:

<p style="text-align: center;">“FORM G INVITATION FOR EXPRESSION OF INTEREST (EOI)FOR Nirmal Lifestyle (Kalyan) Private Limited operating in Real Estate Sector at Mumbai (Under Regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)</p>		
RELEVANT PARTICULARS		
1.	Name of the corporate debtor along with PAN/ CIN/ LLP No.	Nirmal Lifestyle (Kalyan) Private Limited CIN: U70101MH2007PTC169388
2.	Address of the registered office	NIRMAL LIFESTYLE, OPP. NIRMAL NAGAR, LBS MARG, MU LUND (W), MUMBAI- 400080
3.	URL of website	<a href="https://cirp.nirmalkalyan.com/">https://cirp.nirmalkalyan.com/</a>
4.	Details of place where majority of fixed assets are located	Kalyan, Maharashtra
5.	Installed capacity of main products/ services	Not Applicable
6.	Quantity and value of main products/ services sold in last financial year	Not Applicable
7.	Number of employees/ workmen	Under determination (Refer Note 1)
8.	Further details including last available financial statements (with schedules) of two years, lists of creditors, relevant dates for subsequent events of the process are available at:	Details can be sought by emailing at: <a href="mailto:eoi.nlkpl@gmail.com">eoi.nlkpl@gmail.com</a>
9.	Eligibility for resolution applicants under section 25(2)(h) of the Code is available at:	<a href="https://cirp.nirmalkalyan.com/">https://cirp.nirmalkalyan.com/</a> or Details can be sought by emailing at: <a href="mailto:eoi.nlkpl@mail.com">eoi.nlkpl@mail.com</a>
10.	Last date for receipt of expression of interest	26 April 2023
11.	Date of issue of provisional list' of prospective resolution applicants	28 April 2023

12.	Last date for submission of objections to provisional list	3 May2023
13.	Process email ID to submit EOI	<a href="mailto:eoι.nlkpl@gmail.com">eoι.nlkpl@gmail.com</a>
<p><b>Note 1:</b> Confirmation of number of employees/workmen is under verification since employment contracts from the erstwhile management of the corporate debtor are yet to be received.</p> <p><b>Note 2:</b> The timelines specified above can be modified by the committee of creditors in its sole and absolute discretion subject to the overall timelines prescribed under the Insolvency and Bankruptcy Code, 2016</p>		
Sd/-		
Shailendra Ajmera IP Registration No. IBBI/IPA-001/IP- P00304/2017-2018/10568 Ernst & Young LLP, 3rd Floor, Worldmark 1, Aerocity Hospitality, New Delhi, National Capital Territory of Delhi ,110037 For Nirmal Lifestyle (Kalyan) Private Limited”		
Date: 05/04/2023 Place: Mumbai		

18. As per the Form-G, 26.04.2023 was the last date for receipt of EoI and 28.04.2023 was the date of issue of provisional list of PRAs and 03.05.2023 was the last date for submission of objections to provisional list. The Note-2 of the above Form-G empowered the CoC to modify the timelines specified therein subject to the overall timelines prescribed under the IBC. Provisional list of PRAs was published by the RP on 28.04.2023, which included the name of 14 PRAs, out of which 02 were found ineligible. On 03.05.2023, evaluation matrix approved by the CoC and the IM was shared with the PRAs, which required submission of Resolution Plan within 30 days. 3<sup>rd</sup> June, 2023 was the last date for submission of Resolution Plan. Two Clauses of RFRP, which are relevant, have been relied by the CoC, also need to be noticed. First is Clause 2.5.10, which reads as follows:

**“2.5.10** It is also clarified that, acceptance and evaluation by the CoC of any Expression of Interest received subsequent to the issuance of this document shall be subject to the sole discretion of the CoC, subject to Applicable Law. The CoC may at its discretion, reject or further evaluate the interests so received.”

19. Another Clause, which needs to be noticed is Clause 2.13.8, which contains heading “*Right to consider, accept, disqualify or reject any or all Resolution Plans*”. In Clause 2.13.8 following is provided:

**“2.13.8** Subject to Applicable Law, if any EOI or Resolution Plan (with or without EOI) is received by the Resolution Professional from any Person at any stage of the Resolution Plan Process, the Resolution Professional shall be free (but without any obligation to do so) to examine such Resolution Plan (and place the same before the CoC for its consideration) with the approval/consent/ratification of Committee of Creditors and the other PRAs will not have any right to object to submission or consideration of such plan(s). Further, the Resolution Professional (with the approval of CoC) reserves the right to accept any EOI submitted after the Cut-Off Date or any EOI that deviates from the requirements set out in the advertisement, and no other PRA/RA shall have the right to object to such acceptance.”

20. The 4<sup>th</sup> CoC Meeting was held on 29.05.2023, where one of the Resolution No.2 was considered, which was to approve the request received for extension of timeline for submission of Resolution Plan as discussed in Agenda A-6. The CoC approved the request for extension of timeline for 30 days, extending the date for receipt of the submission of the Resolution Plan as 03.07.2023. Resolution No.2, which was approved with 100% vote share is as follows:

**“Resolution No. 2:**

**To approve the request received for extension of timeline for submission of resolution plan as discussed in Agenda A-6**

"RESOLVED THAT pursuant to Regulation 36B(6) of CIRP Regulations, approval of the Committee of Creditors is hereby provided for extending the timeline provided for in the Request for Resolution Plan dated May 3, 2023 and in the detailed IEOI issued by the RP on April 5, 2023, for submission of resolution plan by the prospective resolution applicants by a period of 30 days, with the revised due date being July 3, 2023, subject to the extension of the corporate insolvency resolution process of the Corporate Debtor by 90 (ninety) days by the Hon'ble National Company Law Tribunal, Mumbai."

Particulars	No. of Creditors	Value in %
Voted in Favour of the Resolution	4	100.00%

Voted Against of the Resolution	0	0.00%
Abstained from voting on the Resolution	0	0.00%
Total	4	100.00%”

21. In the 7<sup>th</sup> CoC Meeting held on 24.08.2023, where Resolution No.2 approving the request of accepting and evaluation the expression of interest subsequent to the last date of submission of expressions of interest as per the invitation of EoI was approved and EoIs from Laxmi Civil Engineering Services Pvt. Ltd. and Satec Envir Engineering (India) Pvt. Ltd., was passed. Resolution No.2 as passed in the 7<sup>th</sup> CoC Meeting is as follows:

**“Resolution No. 2:**

**To approve the request of accepting and evaluating the expressions of interest received subsequent to the last date of submission of expressions of interest as per the Invitation for Expression of Interest, as discussed in Agenda A-6**

"RESOLVED THAT pursuant to clause 2.5.10 of the Request for Resolution Plan dated May 3, 2023, approval of the Committee of Creditors is hereby provided for evaluating the expression of interests ("Eols") received from prospective resolution applicants viz. Laxmi Civil Engineering Services Private Limited and Satec Envir Engineering (India) Private Limited, including them as a prospective resolution applicant subject to verification of the compliance of such entities with the criteria issued in the invitation for expression of interest issued by the Resolution Professional on April 05, 2023 and other requirements as stipulated under the Code (and regulations thereunder)."

Particulars	No. of Creditors	Value in %
Voted in Favour of the Resolution	5	100.00%
Voted Against of the Resolution	0	0.00%
Abstained from voting on the Resolution	0	0.00%
Total	5	100.00%”

22. In the 7<sup>th</sup> CoC Meeting a resolution was also passed to apply for extension of 60 days for CIRP. In subsequent Meetings of the CoC like 10<sup>th</sup> Meeting took place on 19.10.2023, 11<sup>th</sup> Meeting on 27.10.2027 and 12<sup>th</sup> Meeting on 11.11.2023, where the last date for receiving of the Plans were extended to 11.12.2023. In 13<sup>th</sup> CoC Meeting held on 15.12.2023, it was noted

that no Plan has been received and time was extended till 12.01.2024. The 15<sup>th</sup> CoC Meeting was held on 18.01.2024, in which Meeting, request received for extension of timeline for submission of Resolution Plan for Nirmal Lifestyle (Kalyan) Pvt. Ltd. was received. In 15<sup>th</sup> CoC Meeting a resolution was passed by the CoC for extending the timeline for submission of the Resolution Plan by PRAs by further period of 18 days with the revised last date being 30.01.2024. Resolution No.1 as passed by the CoC is as follows:

**“Resolution No.1**

**Item No. 1**

**To approve the request received for extension of timeline for submission of resolution plan for Nirmal Lifestyle (Kalyan) Private Limited ("Corporate Debtor") as discussed in Agenda A-5**

The resolution professional ("RP") team apprised the Committee of Creditors ("Coe") that currently, the last date for submission of resolution plan in the corporate insolvency resolution process ("CIRP") of the Corporate Debtor, as voted for by the Coe pursuant to its 14<sup>th</sup> meeting held on December 29, 2023, was January 12, 2024. However, no resolution plans were received in respect of the Corporate Debtor as of that date. Further, on January 17, 2024, a password-protected resolution plan was electronically received from Bunty Properties X, a prospective resolution applicant ("PRA"). Physical documents, including the executed resolution plan along with annexures, as well as the password to access the electronically-submitted resolution plan and earnest money deposit/bid bond guarantee, are still awaited.

Due to the non-receipt of any resolution plan as of January 12, 2024, the last date for the submission of the resolution plan, and challenges in facilitating the site visit, the RP team urged CoC members to deliberate on considering the plan and determining the further course of action in the Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor.

The CoC members deliberated on the requests received from the PRA, emphasizing that the erstwhile management should put in more efforts to facilitate the site visit at the earliest. After thorough discussion, the CoC concluded that an additional period up to January 30, 2024, may be provided to the PRAs to submit a resolution plan for the Corporate Debtor, considering the last date of CIR P, i.e., February 3, 2024, based on the extension granted by the Hon'ble National Company Law Tribunal, Mumbai Bench ("NCLT") vide order dated December 20, 2023 in IAs 5095 of 2023 and 5214 of 2023 in CP(IB) 1337 of 2020.

The RP team requested the CoC to deliberate on the total number of days for which extension may be granted to the PRAs. After due discussion and deliberation, the CoC concluded that an additional

period up to January 30, 2024 may be provided to the PRAs to submit a resolution plan for the Corporate Debtor, taking into account the last date of CIRP, i.e., February 3, 2024, based on the extension granted by the Hon'ble NCLT. After due discussion, the Coe members may pass the following resolution:

"RESOLVED THAT pursuant to Regulation 36 B ( 6) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, approval of the Committee of Creditors is hereby provided for extending the time line for submission of resolution plans by prospective resolution applicants by a further period of 18 (eighteen) days, with the revised last date for submission of resolution plans being January 30, 2024."

Particulars	No. of Creditors	Value in %
Voted in Favour of the Resolution	5	100.00%
Voted Against of the Resolution	0	0.00%
Abstained from voting on the Resolution	0	0.00%
Total	5	100.00%

23. In the same Meeting, Resolution No.2 was passed, approving the registration of CD as Micro, Small and Medium Enterprise ("MSME").

Resolution No.2 passed in above regard is as follows:

**"Resolution No. 2:**

**To approve the registration of Nirmal Lifestyle (Kalyan) Private Limited {"Corporate Debtor"} as a micro, small or medium enterprise ("MSME"), and to approve the delegation by the resolution professional to a member of the board of directors of the Corporate Debtor (powers suspended during the corporate insolvency resolution process of the Corporate Debtor) to apply for the registration of the Corporate Debtor as MSME.**

The team of the resolution professional ("RP") apprised the members of the committee of creditors ("CoC") of Nirma! Lifestyle (Kalyan) Private Limited ("Corporate Debtor") that vide letters dated December 25, 2023, 'December 27, 2023 and January 2, 2024, certain members of the board of directors of the Corporate Debtor had requested for classification of the Corporate Debtor as a micro, small or medium enterprise ("MSME"). The classification of the Corporate Debtor as an MSME was discussed during the fourteenth CoC meeting, held on December 29, 2023, and the fifteenth CoC meeting, held on January 18, 2024, including on the eligibility criteria and whether the Corporate Debtor meets the criteria to be classified as an MSME as per the applicable law, and whether any application for registration of the Corporate Debtor as an MSME can be made at this stage of the corporate insolvency resolution process ("CIRP") of the Corporate Debtor.

After due deliberations, members of the Coe stated that it would be in the interest of the Corporate Debtor and all its stakeholders if an application for MSME registration is made for the Corporate Debtor, keeping in mind the objective of the Insolvency and Bankruptcy Code, 2016 (the "Code").

The team of the RP further informed the forum that as per Section 28(1)(h) of the Code, the RP can delegate his authority upon approval of the Coe and requested the Coe for its approval to delegate the application for registration of the Corporate Debtor as an MSME to Mr. Chandrakant Shah, a member of the board of directors of the Corporate Debtor, whose powers are suspended during the CIRP of the Corporate Debtor.

After due discussion, the CoC members may pass the following resolution:

"RESOLVED THAT approval of the Committee of Creditors is hereby provided for registration of the Corporate Debtor as a micro, small or medium enterprise in accordance with applicable law.

RESOLVED FURTHER THAT pursuant to Section 28(1)(h) of the Insolvency and Bankruptcy Code, 2016, approval of the Committee of Creditors is hereby provided for delegating the authority of the resolution professional of the Corporate Debtor to Mr. Chandrakant Shah, a member of the board of directors of the Corporate Debtor, whose powers are suspended as per the provisions of the Insolvency and Bankruptcy Code, 2016, solely for the limited purpose of applying for registration of the Corporate Debtor as a micro, small or medium enterprise in accordance with applicable law."

Particulars	No. of Creditors	Value in %
Voted in Favour of the Resolution	4	88.9%
Voted Against of the Resolution	0	0.00%
Abstained from voting on the Resolution	1	11.1%
Total	5	100.00%"

24. When we look into the resolution passed extending the timeline for submission of the Resolution Plan by PRAs, time was extended till 30.01.2024. The 16<sup>th</sup> CoC Meeting was held on 02.02.2024, wherein Resolution No.2 with respect to request received for extension of timeline for submission of Resolution Plan for Nirmal Lifestyle (Kalyan) Pvt. Ltd. was approved. Revised date of submission of Resolution Plan was fixed as 19.02.2024. Resolution No.2 as passed in the said Meeting is as follows:

**“Resolution No. 2:**

**To approve the request received for extension of timeline for submission of resolution plan for Nirmal Lifestyle (Kalyan) Private Limited ("Corporate Debtor") as discussed in Agenda A-6**

xxx

xxx

xxx

"RESOLVED THAT pursuant to Regulation 36B(6) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, approval of the Committee of Creditors is hereby provided for extending the timeline for submission of resolution plans by prospective resolution applicants by a further period of 16 (sixteen) days, with the revised last date for submission of resolution plans being February 19, 2024, subject to the outcome of the adjudication of the interlocutory application to be filed by the resolution professional before the Hon'ble National Company Law Tribunal, Mumbai Bench, seeking extension of 60 (sixty) days of the CIRP period of the Corporate Debtor beyond the current last date, being February 3, 2024."

Particulars	No. of Creditors	Value in %
Voted in Favour of the Resolution	5	100%
Voted Against of the Resolution	0	0%
Abstained from voting on the Resolution	0	0%
Total	5	100%"

25. Another Resolution No.3, which was approved, where a decision was taken to accept and evaluate the EoI received subsequent to the last date of submission of expressions of interest as per the invitation of EoI received from Consortium of Dharmesh Jain was also approved, whose name was included in the PRAs. Resolution No.3 as passed in the 16<sup>th</sup> Meeting of the CoC is as follows:

**"Resolution No. 3:**

**To approve the request of accepting and evaluating the expressions of interest received subsequent to the last date of submission of expressions of interest as per the Invitation for Expression of Interest, as discussed in Agenda A-6**

The Chairman apprised the CoC members that a new expression of interest {"EoI") has been received from a prospective resolution applicant ("PRA") on January 30, 2024. The Chairman apprised the CoC members that per the Invitation for Expression of Interest {"IEOI") issued by the resolution professional ("RP") on April 5, 2023, the last date of submission of EoIs for submission of resolution plan for the Corporate was prescribed to be April 26, 2023. The Chairman also

apprised the Coe members that pursuant to clause 2.5.10 of the Request for Resolution Plan issued on May 03, 2023 ("RFRP"), the acceptance and evaluation by the CoC of any EoI received subsequent to the date of issuance of the RFRP (which includes, inter alia. the last date for submission of EoIs as prescribed in the IEoI) shall be subject to the sole discretion of the CoC, subject to the applicable laws and the adjudication of the interlocutory application to be filed by the RP before the Hon'ble National Company Law Tribunal, Mumbai Bench, seeking extension of 60 (sixty) days of the CIRP period of the Corporate Debtor beyond the current last date, being February 3, 2024. The CoC may at its discretion, reject or accept and further evaluate the EoI so received.

The EoI received after the last date for submission of EoI as provided for in the IEoI is tabled below:

Name of the PRA	Category	Date of receipt
Consortium of Dharmesh Jain, M/s Right Choice Housing Private Limited, M/s Prakruti Nirman Development Private Limited and M/s Nirmal Events 2 Excellence Private Limited	Strategic	January 30, 2024

After due discussion, the CoC members may pass the following resolution:

"RESOLVED THAT pursuant to clause 2.5.10 of the Request for Resolution Plan dated May 3, 2023, approval of the Committee of Creditors is hereby provided for accepting and evaluating the Expression of Interest ("EoI") received from the consortium of Dharmesh Jain, M/s Right Choice Housing Private Limited, M/s Prakruti Nirman Development Private Limited and M/s Nirmal Events 2 Excellence Private Limited ("Nirmal Consortium") subsequent to the last date for submission of EoIs, as per the Invitation for Expression of Interest dated April 5, 2023, ("IEoI") being April 26, 2023, and including them as a prospective resolution applicant, subject to verification of the compliance of such entities with the criteria issued in the IEoI, and other stipulations as prescribed in the Insolvency and Bankruptcy Code, 2016 (and the regulations framed thereunder) as well as other applicable law, and the adjudication of the interlocutory application to be filed by the RP before the Hon'ble National Company Law Tribunal, Mumbai Bench, seeking extension of 60 (sixty) days of the CIRP period of the Corporate Debtor beyond the current last date, being February 3, 2024."

Particulars	No. of Creditors	Value in %
Voted in Favour of the Resolution	5	100%
Voted Against of the Resolution	0	0%
Abstained from voting on the Resolution	0	0%
Total	5	100%"

26. The above resolution of the CoC indicate that EoI of the Consortium of Dharmesh Jain was accepted and time was also extended for submission of the Resolution Plan. The Resolution Plan was submitted by Consortium of Dharmesh Jain on 30.01.2024 including the revised/ amended Resolution Plan. The revised Resolution Plan received from the Consortium of Dharmesh Jain, was voted in 22<sup>nd</sup> Meeting of the CoC held on 6<sup>th</sup> and 9<sup>th</sup> September, 2024 and the Plan was approved with 89.2% vote shares, on the basis of which an application was filed before the Adjudicating Authority for approval of the Resolution Plan by the RP.

27. The question to be answered is as to whether the process adopted by the CoC and the RP to include Consortium of Dharmesh Jain as one of the Resolution Applicant, after approval of the CoC, is in accordance with Regulation 36A and Regulation 39 of the CIRP Regulations. The Adjudicating Authority in the impugned order has observed that consideration of the Plan of SRA was not in accordance with Regulation 36A and Regulation 39, which is the reason given by the Adjudicating Authority for rejecting the application for approval of the Resolution Plan. The Adjudicating Authority has also observed that without publishing the fresh Form-G, EoI from Consortium of Dharmesh Jain could not have been accepted. The submission of Shri Datta in support of the consideration of Resolution Plan of Consortium of Dharmesh Jain is that the Form-G itself contained Note-2, which empowered the CoC to modify the timelines, hence, for modifying the timelines as provided in Form-G, there was no necessity for publication of fresh Form-G. Shri Datta has placed reliance on judgment of this Tribunal in ***Brand Steel & Power Pvt. Ltd. vs. Avishek Gupta and Ors. – (2025 SCC OnLine NCLAT 350.*** In the

above case also Form-G was issued, which contained a Clause that RP may extend the last date with consent/ approval/ ratification of the CoC, as the CoC had right to accept and reject any EoIs submitted after the last date. In the above case, after issuance of Form-G, the EoI submitted by Resolution Applicant, who was ultimately approved as SRA, was accepted. In the above case, the Resolution Plan of the SRA was accepted with the approval of the CoC and ultimately, the Adjudicating Authority approved the Resolution Plan of the SRA. Appeals were filed by the Unsuccessful Resolution Applicant challenging the order approving the Resolution Plan and rejecting the application filed by the Appellant objecting to the Resolution Plan. One of the submissions raised was that SRA had not submitted EoI within the time provided in Form-G. Hence, it was necessary to publish Form-G for accepting the EoI of the SRA. This Tribunal in the above case held that CoC was empowered to extend the timeline for submission of EoI and Resolution Plan. Regulation 36A(4A) was also considered. In Paragraph 19, 20, 21 and 22 following was held:

**“19.** Counsel for the Appellant has contended that by virtue of provisions of Regulation 36A (4A) which was inserted on 30.09.2021 even extension of timeline was required to be published i.e. a fresh Form G was required to be published. Regulation 36A (4A) provides as follows:—

**“36A. Invitation for expression of interest.** (4A) Any modification in the invitation for expression of interest may be made in the manner as the initial invitation for expression of interest was made : Provided that such modification shall not be made more than once.”

**20.** One of the questions to be answered is as to whether extension of timeline which is contemplated in the EoI itself require a publication of fresh Form G. Present is not a case that there was any modification in the Invitation for EoI rather only extension of timeline on same criteria and conditions as was initially provided have been made. Timeline as noticed above was already permitted to be extended by Clause 6 of the same Invitation for EoI dated 23.10.2022 by which process for receiving

of EoI commenced. Clause 6 only provided for extension of last date for submission of EoI and when we read Clause 6, it does not indicate that for extension of last date of EoI revised fresh Form G was required to be issued. We have noticed that in Regulation 36 B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 which is 'request for resolution plans' both expressions i.e. modification and extension of timeline have been used. We may refer to sub-regulations (5) and (6) of the Regulation 36B which are as follows:—

**“36B. Request for resolution plans.-** (5) Any modification in the request for resolution plan or the evaluation matrix issued under sub-regulation (1), shall be deemed to be a fresh issue and shall be subject to timeline under sub-regulation (3).

[Provided that such modifications shall not be made more than once.]

(6) The resolution professional may, with the approval of the committee, extend the timeline for submission of resolution plans.

[(6A) If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the approval of the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor.”

**21.** As per sub-regulation (5), any modification in the request for resolution plan has to be treated as fresh issue whereas extension of timeline with the approval of the committee has been separately dealt. Thus, modification of request for resolution plan and extension of timeline has been separately dealt in Regulation 36B. Applying the aforesaid analogy in Regulation 36A, it is clear that although any modification in the Invitation for Expression of Interest require publication of fresh Form G but Regulation 36A on its term does not contemplate publication of fresh Form G when timeline has been extended. In any view of the matter, the present is a case where Appellant who has aggrieved by the approval of the Resolution Plan and rejection of his IA was very much part of the CIRP process, he having expressed its interest in pursuance of the issuance of Form G and after extension of timeline, it was communicated by e-mail dated 13.02.2023 and after publication of list of Prospective Resolution Applicants on 23.02.2023, neither any objection was filed by Appellant rather it participated in the process by filing a resolution plan by deleting Nippon Ispat Pvt. Ltd. from its resolution plan with whom it has earlier submitted resolution plan which was non-compliant. Applicant, thus, participated in the process and took chance to succeed without raising any objection to the extension of timeline. Even for argument sake, if we accept the submission that extension of timeline requires publication of fresh Form G, the Appellant in no manner can be said to have aggrieved by non-publication of Form-G since Appellant was part of process from beginning and after extension of timeline has also submitted its revised plan. Counsel for the Appellant has placed much reliance on Regulation 39(1-B) which provides as follows:—

“39. Approval of resolution plan.- (1B) The committee shall not consider any resolution plan- (a) received after the time as specified by the committee under regulation 36B; or (b) received from a person who does not appear in the final list of prospective resolution applicants; or (c) does not comply with the provisions of sub-section (2) of section 30 and sub regulation (1).]”

**22.** Counsel for the Appellant relied on sub-clause (1-B) of Regulation 39 to support his submission that the name of the SRA did not appear in the final list of PRA. We have noticed above that even though the name of Pinax Paper Mills Private Limited was not included in the first final list of PRAs but after extension of timeline when final list of PRA was published on 28.02.2023, the name of Pinax Paper Mills Private Limited was very much there. Thus, we are not satisfied that there is any breach of provisions of Regulation 39(1-B). The final list published on 28.02.2023 has already been extracted above as is on the record of the Appeal.”

28. It was held that any modification in the invitation of EoI required publication of Form-G but Regulation 36A on its term does not contemplate publication of fresh Form-G when timeline has been extended. The above judgment does support the submission of Shri Datta that fresh Form-G was not required to be published since only timelines were extended.

29. We need to notice Regulation 36A to find out the statutory requirement with respect to invitation of EoI and the steps to be taken by the RP in that regard. Regulation 36A provides as follows:

**“36A. Invitation for expression of interest.**

(1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the 123[Schedule-I] at the earliest, 124[not later than sixtieth day]from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.

Clarification: The resolution professional after the approval of the committee may invite a resolution plan for each real estate project or group of projects of the corporate debtor.

(1A) The resolution professional may, with the approval of the committee, invite expression of interest for submission of resolution plans for the corporate debtor as a whole, or for sale of one or more of assets of the corporate debtor, or for both.

(2) The resolution professional shall publish Form G-

(i) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the resolution professional, the corporate debtor conducts material business operations;

(ii) on the website, if any, of the corporate debtor;

(iii) on the website, if any, designated by the Board for the purpose; and

(iv) in any other manner as may be decided by the committee.

(3) The Form G in the [Schedule-I] shall –

(a) state where the detailed invitation for expression of interest can be downloaded or obtained from, as the case may be; and

(b) provide the last date for submission of expression of interest which shall not be less than fifteen days from the date of issue of detailed invitation.

(4) The detailed invitation referred to in sub-regulation (3) shall-

(a) specify the criteria for prospective resolution applicants, as approved by the committee in accordance with clause (h) of sub-section (2) of section 25;

(b) state the ineligibility norms under section 29A to the extent applicable for prospective resolution applicants;

(c) provide such basic information about the corporate debtor as may be required by a prospective resolution applicant for expression of interest;

(d) not require payment of any fee or any non-refundable deposit for submission of expression of [interest; and].

(e) provide details of the corporate debtor's registration status as a micro, small, or medium enterprise in accordance with the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

Provided that where the corporate debtor has any real estate project, the committee, for an association or group of allottees in such real estate project, representing not less than ten per cent. or one hundred creditors out of the total number of creditors in a class, whichever is lower, may relax the following:

(a) eligibility criteria for submission of expression of interest provided in clause (a) above; and

(b) conditions regarding the refundable deposit.]

(4A) Any modification in the invitation for expression of interest may be made in the manner as the initial invitation for expression of interest was made: Provided that such modification shall not be made more than once.

(5) A prospective resolution applicant, who meet the requirements of the invitation for expression of interest, may submit expression of interest within the time specified in the invitation under clause (b) of sub-regulation (3).

(6) The expression of interest received after the time specified in the invitation under clause (b) of sub-regulation (3) shall be rejected.

(7) An expression of interest shall be unconditional and be accompanied by-

(a) an undertaking by the prospective resolution applicant that it meets the criteria specified by the committee under clause (h) of sub-section (2) of section 25;

(b) relevant records in evidence of meeting the criteria under clause (a);

(c) an undertaking by the prospective resolution applicant that it does not suffer from any ineligibility under section 29A to the extent applicable;

(d) relevant information and records to enable an assessment of ineligibility under clause (c);

(e) an undertaking by the prospective resolution applicant that it shall intimate the resolution professional forthwith if it becomes ineligible at any time during the corporate insolvency resolution process;

(f) an undertaking by the prospective resolution applicant that every information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the applicant ineligible to submit resolution plan, forfeit any refundable deposit, and attract penal action under the Code; and

(g) an undertaking by the prospective resolution applicant to the effect that it shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.

(8) The resolution professional shall conduct due diligence based on the material on record in order to satisfy that the prospective resolution applicant complies with-

(a) the provisions of clause (h) of sub-section (2) of section 25;

(b) the applicable provisions of section 29A, and

(c) other requirements, as specified in the invitation for expression of interest.

(9) The resolution professional may seek any clarification or additional information or document from the prospective resolution applicant for conducting due diligence under subregulation (8).

(10) The resolution professional shall issue a provisional list of eligible prospective resolution applicants within ten days of the last date for submission of expression of interest to the committee and to all prospective resolution applicants who submitted the expression of interest.

(11) Any objection to inclusion or exclusion of a prospective resolution applicant in the provisional list referred to in sub-regulation (10) maybe

made with supporting documents within five days from the date of issue of the provisional list.

(12) On considering the objections received under sub-regulation (11), the resolution professional shall issue the final list of prospective resolution applicants within ten days of the last date for receipt of objections, to the committee.”

30. Regulation 36A sub-regulation 10 provides for issuance of provisional list of eligible PRAs within 10 days from the last date for submission of EoI to the Committee and to all prospective Resolution Applicants, who submitted the EoI. Sub-regulation 11 of Regulation 36A provides for objections for inclusion or exclusion of a PRA within five days and under sub-regulation 12, the RP is to issue final list of PRAs. Coming to the facts of the present case, as noted above, as per Form-G published on 05.04.2023, the 26.04.2023 was the last date for receiving of EoI, 28.04.2023 was the date for issuance of provisional list of eligible PRAs and 03.05.2023 was last date for receiving the objections to provisional list. Provisional list was issued on 28.04.2023, in which name of Consortium of Dharmesh Jain obviously was not there. We have noticed above that in the 15<sup>th</sup> Meeting of the CoC, held on 18.01.2024, the RP informed about the requests received for extension of time for submission of Resolution Plan for Nirmal Lifestyle (Kalyan) Pvt. Ltd. Time was extended for submission of Resolution Plan on 30.01.2024. In the said Meeting, it was decided to register the CD as an MSME and it was in the 16<sup>th</sup> Meeting of the CoC held on 02.02.2024, where for the first time EoI received from Consortium of Dharmesh Jain was noticed and Resolution No.3 was passed including them as PRA. It is, thus, clear that CoC resolved to pass a resolution to accept the EoI from Consortium of Dharmesh Jain in its 16<sup>th</sup> Meeting held on 02.02.2024. EoI was accepted and Resolution Plan was also received from Consortium of Dharmesh Jain. When Form-G, Note-2

contemplate extension of timelines, extension of timeline has to be considered to be extension of all timelines as mentioned in Form-G, including last date of receipt of EoI, issue of provisional list of PRAs and submission of objections to provisional list of PRAs and issuance of final list of PRAs. The requirement of issue of provisional list of all PRAs and inviting objection, is a statutory requirement as per Regulation 36A, sub-regulations 10 and 11. Even if the submission of Shri Datta is accepted that CoC could have extended the timelines for receipt of the EoIs and Resolution Plans, any EoI could have been accepted and included in the final list of PRAs only after due compliance of requirement under sub-regulations 10 and 11. We need to notice two Clauses of RFRP, which we have already noticed above, i.e. Clause 2.5.10 and 2.13.8. Clause 2.13.8 is again reproduced for ready reference:

**“2.13.8** Subject to Applicable Law, if any EOI or Resolution Plan (with or without EOI) is received by the Resolution Professional from any Person at any stage of the Resolution Plan Process, the Resolution Professional shall be free (but without any obligation to do so) to examine such Resolution Plan (and place the same before the CoC for its consideration) with the approval/consent/ratification of Committee of Creditors and the other PRAs will not have any right to object to submission or consideration of such plan(s). Further, the Resolution Professional (with the approval of CoC) reserves the right to accept any EOI submitted after the Cut-Off Date or any EoI that deviates from the requirements set out in the advertisement, and no other PRA/RA shall have the right to object to such acceptance.”

31. Clause 2.13.8 begins with the expression “*Subject to Applicable Law, if any EoI or Resolution Plan (with or without EoI) is received by RP from any person at any stage of the Resolution Plan Process, the RP shall be free to examine such Plan (and place the same before the CoC for its consideration) with the approval/ consent/ ratification of CoC*”. There can be no two opinions regarding the power of the CoC as reserved in Clause 2.13.8, but in a case where any EoI is accepted, which is received after expiry of timeline and time

is extended by CoC, it is obligatory for the CoC to follow statutory requirement of sub-regulations 10 and 11 of CIRP Regulations 36A. Thus, any EoI received from any person by the RP after the last date of receipt of the EoI, his name has to be included in the PRAs and communicated to all the PRAs and objections, if any, were also required to be invited and then the final list of PRAs has to be finalised. The Adjudicating Authority in the impugned order has noted that final list of PRAs was published 10.05.2023, which was amended on 07.06.2023, 04.06.2023 and 23.02.2024. Inclusion of Consortium of Dharmesh Jain in the final list of PRAs claimed to be issued on 23.02.2024 is without following statutory requirements as provided in Regulation 36A, sub-regulations 10 and 11. We, thus, are of the view that inclusion of Consortium of Dharmesh Jain in the final list of PRAs in the amended final list of PRAs is not in conformity with the statutory requirement as provided in sub-regulations 10 and 11 of Regulation 36A. In this context, we may refer to the judgment of this Tribunal in **Brand Steel & Power Ltd.** (supra), where this Tribunal has noted that two Applicants, who were included in the list of PRAs, after extension of timeline, a fresh list of PRAs was published and final list of PRAs was published in which name of SRA was included. The said observation and findings are made in Paragraph-24 of the judgment, which is as follows:

“**24.** There can be no dispute to the proposition laid down by this Tribunal in the aforesaid judgment. Those two applicants whose plans were directed by the Adjudicating Authority to place before the CoC were not included in the list of PRAs. However, when we apply the aforesaid judgment in the facts of the present case, it is apparent that in the present case after extension of timeline, fresh list of PRA was

published on 23.02.2023 and final list of PRA was published on 28.02.2023 in which list the name of Pinax Paper Mills Private Limited-SRA was included. Thus, the ratio laid down in paragraphs 10 and 11 of the above judgment is not attracted in the facts of the present case where PRA was included in the final list of the PRAs published by the Resolution Professional and after the issuance of final list of PRA on 28.02.2023, several meetings of the CoC was held. Appellant and other Prospective Resolution Applicants were permitted to present their plans before the CoC and no objections were taken to the participation of Pinax Paper Mills Private Limited in the process.”

32. We, thus, are of the view that after extension of timeline for receiving EoIs, as per Form-G, even though it was not necessary to issue a fresh Form-G and CoC was competent to extend the timeline for receipt of EoIs and Resolution Plans, the statutory requirement in sub-regulations 10, 11 and 12 of Regulation 36A of CIRP Regulations has to be complied with. In the present case, we have looked into all relevant Minutes of the CoC and letters and other correspondence and it is clear that after a request was made to the RP by Consortium of Dharmesh Jain on 30.01.2024, in the Minutes of the Meeting of the CoC held on 02.02.2024, it was decided by the CoC to accept the EoI and to extend the last date for submission of Resolution Plan for the CD. The Resolution Plan given by Consortium of Dharmesh Jain was considered and voted, but it is not shown that after receipt of the EoI from Consortium of Dharmesh Jain on 30.01.2024, any amended list of PRAs for the purpose of inviting objections was published and the compliance was made of sub-regulations 10, 11 and 12 of Regulation 36A. When no provisional list of eligible PRAs, including the name of Consortium of Dharmesh Jain inviting any objections was published, inclusion the name of Consortium of Dharmesh Jain, cannot be said to be in accordance with the statutory requirements.

Hence, we are of the view that Resolution Plan of Consortium of Dharmesh Jain could not have been considered by the CoC.

33. We are in full agreement with the reasons given by Adjudicating Authority in Paragraph 9.2 (ii), (iii) and (iv). When the Resolution Plan submitted by Consortium of Dharmesh Jain could not have been considered without complying the statutory requirements of Regulation 36A as noted above, the Adjudicating Authority did not commit any error in not approving the Resolution Plan of Consortium of Dharmesh Jain. We, thus, upheld the decision of Adjudicating Authority in not approving the Resolution Plan of Consortium of Dharmesh Jain for the reasons indicated above.

**Question No.(II).**

34. The eligibility of Consortium of Dharmesh Jain to submit EoI has been considered by the Adjudicating Authority in Paragraph-9.3. The Adjudicating Authority has noted the Minutes of 17<sup>th</sup> CoC Meeting, where the CoC after due deliberations noted that net-worth certificate provided by Consortium of Dharmesh Jain has been prepared and certified by a Chartered Accountant on the basis of their verification of the relevant information and the underlying documents. The Adjudicating Authority has observed that the Consortium of Dharmesh Jain did not produce audited financial statements for the preceding completed financial year to demonstrate that it has a Minimum Tangible Net Worth of Rs.100 crores as required in the IEoI. The Adjudicating Authority also noted that the RP has filed an additional affidavit dated 30.11.2024 along with a net-worth certificate of Consortium of Dharmesh Jain issued by M/s J Aacharya & Associates, Chartered Accountants. Only

observation made in Paragraph 9.3 (vii) is that *“It appears that Nirmal Consortium did not produce adequate documents to establish its eligibility when the Expression of Interest was considered”*. The findings and conclusions have been recorded by the Adjudicating Authority in Paragraph-10. In the findings although the Adjudicating Authority has noticed the breach of Regulation 36A and other observations, but there is no finding or conclusion recorded that Consortium of Dharmesh Jain is not eligible to submit the Resolution Plan. Rather, the observation is that Nirmal Consortium has not offered any performance security, which can be forfeited in the event of non-implementation of the Resolution Plan. We, thus, are of the view that Adjudicating Authority has not held the Consortium of Dharmesh Jain as ineligible to submit the Resolution Plan. Question No.(II) is decided accordingly.

**Question No.(III)**

35. With regard to the observation in the impugned order regarding expiry of CIRP in Paragraph-9.11 it has been observed that Resolution Plan was put to vote from 11.09.2024 to 18.09.2024 and was approved by the CoC and an application for approval of the Plan was filed on 22.10.2024. When the application for extension of CIRP period was allowed by order dated 10.12.2024, the corresponding period till 30.09.2024 when the application for approval of Resolution Plan was filed, was well within the CIRP period. The CoC has submitted that the plan approval application was filed on 30.09.2024, whereas the Adjudicating Authority in the above paragraph has observed that the Plan approval application was filed only on 24.10.2024. Be

that as it may, when the Resolution Plan was approved within the CIRP period, no fault can be found with the process on the ground that application for approval of Resolution Plan was filed on 24.10.2024, whereas as noted above, the case of the CoC is that the application was filed on 30.09.2024. We, thus, do not find any breach of CIRP period in the resolution process. Question No.(III) is decided accordingly.

**Question Nos.(IV), (V) and (VI)**

36. All the above questions relate to Resolution Plan filed by the Consortium of Dharmesh Jain. The said Resolution Plan has not been approved by the Adjudicating Authority and we having already upheld the order of the Adjudicating Authority not approving the Resolution Plan for the reasons given above, we see no reason to enter into the issues, which relate to the Resolution Plan submitted by the SRA. In view of our answer to Question No.(I) in this Appeal, the consideration of all the above issues has become unnecessary.

**Question No.(VII)**

37. Now, we come to the reliefs, which the Appellant(s) are entitled in the present Appeal(s). As noted above, the project in question is a real-estate project, which was being undertaken by the CD, lay in large stretch of land. Learned Counsel for the parties have submitted that there are more than 2200 homebuyers, who are waiting for their homes to be given to them. There are three Occupation Certificates have been received and for another six, Occupation Certificates have been applied. Learned Counsel appearing for

the homebuyers in Company Appeal (AT) (Ins.) No.1518 of 2025 has supported the SRA to carry on the project. Learned Counsel appearing for another set of the Appeals in Company Appeal (AT) (Ins.) No.1605 of 2025 has also contended that homebuyers are against the liquidation of the CD and it is submitted before us that issuance of fresh Form-G shall be in the interest of stakeholders as liquidation of the real-estate project being the last resort.

38. We have noted above that CIRP period was extended by the Adjudicating Authority till 30.09.2024 and thereafter, Plan approval application was pending before the Adjudicating Authority, giving rise to these Appeal(s). In the facts of the present case, we are of the view that ends of justice will be served in modifying the judgment of the Adjudicating Authority by deleting the direction issued by Adjudicating Authority for filing of liquidation application. We are conscious that CIRP period is over long ago, but in view of interest of 2200 homebuyers, who are homebuyers in different projects of the CD, one last effort needs to be made for resolution of the CD by a Resolution Applicant.

39. In view of the above, we dispose of all the Appeal(s) in following manner:

- (i) We uphold the order of the Adjudicating Authority rejecting IA-88/MB/2024 for the reasons as contained in this judgment.
- (ii) The impugned order dated 26.08.2025 is modified by setting aside the following direction of the Adjudicating Authority “*The Applicant is directed to take further steps in accordance with the Code for initiating the liquidation of the Corporate Debtor*”.

- (a) The RP and the CoC is directed to issue fresh Form-G inviting EoI on the terms and conditions which were contained in the earlier Form-G published on 05.04.2023. The Resolution Applicants, who had earlier submitted EoIs including Consortium of Dharmesh Jain, shall also be entitled to submit their EoIs. The CIRP shall re-commence from the stage of issuance of Form-G. The RP shall issue provisional list of eligible PRAs and after considering the objections, if any, to the provisional list of PRAs, final list of PRAs shall be published requesting for Resolution Plans, as was earlier done.
- (b) The entire CIRP process be concluded within 90 days from passing of this order. The Resolution Plan, if approved by CoC, shall be filed before the Adjudicating Authority for fresh consideration. The Adjudicating Authority while considering Resolution Plan afresh, any observation made in the impugned order shall not be taken into consideration.
- (c) In event CIRP is not completed within 90 days as directed above, the RP shall file an application for liquidation before the Adjudicating Authority in accordance with law.
- (d) The period during which Resolution Plan approval Application IA-88/MB/2024 remained pending as well as the period during which these Appeal(s) remained pending

is excluded and extension is granted of 90 days from the date of this order.

All the Appeal(s) are disposed of accordingly. Parties shall bear their own costs.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**New Delhi**

**23<sup>rd</sup> January, 2026**

*Ashwani*