

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-5218/2023
In
IB-113(ND)/2021

IN THE MATTER OF IB-113(ND)/2021:

M/s. Vistra ITCL (India) Limited **Financial Creditor**

Versus

M/s. Ansal Urban Condominiums Private Limited **Corporate Debtor**

AND IN THE MATTER OF IA-5218/2023:

Dr. Chandrakant Singhal **Applicant**

Versus

Mr. Rajesh Ramani
Resolution Professional of the Corporate Debtor **Respondent**

Order Pronounced On: 04.07.2024

CORAM:

**SHRI ATUL CHATURVEDI
MEMBER (TECHNICAL)**

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

PRESENT:

For the Applicant : Ms. Aakansha, Mr. Lalit Mohan, Mr. Videh Vaish,
Adv.
For the Respondent : Ms. Priyanshi Tyagi, Adv. a/w Rajesh Rmanani,
RP

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by Mr. Chandrakant Singhal, the Applicant herein, under Section 60(5)(b) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 before this Adjudicating Authority, seeking the following reliefs:

“i. Allow the present Application;

- ii. Give suitable direction to the Resolution professional to accept and include the claim of the Applicant to the tune of Rs. 13,36,108/- (Rupees Thirteen Lakhs Thirty Six Thousand One Hundred and Eight Only), amount paid to the Corporate Debtor along with interest and update the resultant list of creditors accordingly, intimate the same to the Resolution Applicant whose Resolution Plan has been approved in the CoC;*
- iii. Pass any other/further order(s) which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the present matter."*

2. Brief Background of the Case:

The facts that are relevant for the determination of the issues involved in this application are stated as under:

- i.** An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Financial Creditor i.e. M/s. Vistra ITCL (India) Limited, against the Corporate Debtor i.e. M/s. Ansal Urban Condominiums Private Limited and the said application was admitted ex parte vide order dated 10.03.2022 by this Adjudicating Authority and a moratorium was declared. As proposed by the Financial Creditor, the Respondent herein, Mr. Rajesh Ramnani, having IBBI registration number IBBI/IPA-002/IP-N00993/2020-21/13187, was appointed as the Interim Resolution Professional. Subsequently, he was confirmed as the Resolution Professional of the Corporate Debtor at the first meeting of the Committee of Creditors ("COC") held on 09.04.2022, in terms of Section 22 of IBC.
- ii.** Thereafter, the Resolution Plan was submitted by M/s. One City Infrastructure Private Limited which was approved by the CoC in its 12th meeting dated 03.08.2023 (e-voting concluded on

09.08.2023) by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability. Thereafter, Mr. Rajesh Ramnani, the Resolution Professional of the Corporate Debtor filed IA-4863-2023 to seek approval of the Resolution Plan under Section 30(6) read with Section 31 of IBC, 2016, which is pending adjudication before this Adjudicating Authority.

3. Submissions of the Applicant:

- i.** The Applicant on 23.07.2012 booked a unit S3A/13/04 (Admeasuring upto 960.36 sq. fts.) and paid the consideration amount of Rs. 13,36,108/- for the flat in the group housing residential scheme namely Sushant Aquapolis, a project of M/s. Ansal Urban Condominiums Pvt. Ltd. situated at Sushant Aquapolis, Chipiyana Buzurg, Ghaziabad, Uttar Pradesh 201009 wherein the Builder-Buyer Agreement was signed on 09.11.2012 and the date of possession was 36 months from the date of signing with a grace period of 6 months, i.e., the possession was to be handed over to the Applicant on or before 09.05.2016.
- ii.** Therefore, the Applicant was compelled to file a complaint bearing complaint No. NCR145/08/58269/2020 in RERA, wherein vide judgment dated 02.02.2021, the RERA had ordered the Corporate Debtor to repay Rs. 13,36,108/- along with an interest of MCLR+1% from the date of booking till actual payment whereas the Corporate Debtor till date has not repaid a single penny to the Applicant.
- iii.** Pursuant to the commencement of CIRP against the Corporate Debtor, a public announcement was made by the Respondent in the prescribed Form A on 14.03.2022, under Regulation 6 of the

CIRP Regulations wherein the last date of submission of claims was 24.03.2022.

- iv.** The Applicant came to know about the commencement of the Corporate Insolvency Resolution Process against the Corporate Debtor through a letter sent by the Respondent. Being a layman as well as a senior citizen, not very well equipped with the process of filing claims under the IBC, 2016, through NeSL, the Applicant after numerous attempts to file the claim and leaving no stone unturned to file the claim within the stipulated period was compelled to engage a legal counsel. The Applicant sent an email to the Respondent on 05.08.2023, wherein a reply saying that the documents had not been uploaded on the NeSL site was sent by the Respondent on 28.08.2023.
- v.** It is the case of the Applicant that after receiving the reply of the Respondent, without making any further delay, on 31.08.2023, the Applicant seeking assistance from legal counsel filed the claim in Form CA with the necessary documents and uploaded it on the NeSL and a physical copy was also posted on 04.09.2023.
- vi.** It would not be out of place to mention herein that even though the documents were not uploaded, the list of creditors wherein the name of the Applicant is reflected should have included the amount that is being reflected in the books of accounts of the Corporate Debtor. The Applicant submitted that under Regulation 36 of CIRP Regulations, 2016, the RP is duty-bound to collate the claims whose financial information is reflected in the records of the company, even though a claim may not have been filed.

4. Submissions of the Respondent:

- i.** The Respondent has filed a reply affidavit denying the allegations made by the Applicant and stated that the Applicant after lapse of

6 months from the day of letter of intimation to her, submitted her claim on 31.08.2023, which was after the Resolution Plan submitted by the Prospective Resolution Applicants was approved by the COC members.

- ii.** The Respondent submitted that even before the Applicant had submitted documents on NESL Portal, the Applicant's claim was already dealt with in the Resolution Plan approved by the COC (on the basis of the fact that the Respondent had clearly mentioned that no amount has been Claimed by the Applicant and in the Claim admitted column that no document uploaded by the Applicant within the prescribed time was made part of IM and was forwarded to the SRA) and the said homebuyers are to be dealt with as per the resolution plan approved by the COC and pending approval before this Adjudicating Authority.
- iii.** The Respondent further submitted that any new admission of claim would upset the already discussed plans submitted by the Resolution Applicant and could result in the possibility of the Resolution Applicants further taking time to modify their Plans (who had filed their Plans and further modified the same on the basis of the available claims). Accordingly, the claim of the Applicant was not admitted by the Respondent/ Resolution Professional as one Resolution Plan was already approved by the Committee of Creditor (CoC).
- iv.** As per the books of the Company all the claims are to be made a part of the IM, which has been duly done by the Respondent. The said claims are to be treated by the Resolution Applicant in the Resolution Plan, which has also been done by the SRA in the present case and the COC has also ratified the way such claim/ s has been treated in the resolution plan. The Successful Resolution Applicant is giving units to the home buyers who are filing belated

Claims at a price mentioned in the Resolution Plan and the amount initially paid by such home buyers are duly taken into consideration while paying the Balance amount payable as per the Resolution plan approved by the Committee of Creditors.

- v. It is the case of the Respondent that neither Form CA was filed by the Applicant within the statutory time nor were any documents uploaded on the NESL portal by the Applicant. Thus, in the absence of the same and non-filing thereof within time limit, the claim of Applicant cannot be admitted by the Respondent.

5. Analysis and Findings:

- i. We have heard the submissions of Ld. Counsel appearing for the Applicant as well as Ld. Counsel appearing for the Respondent. We have also perused the records.
- ii. Admittedly, the last date of submission of claims was 24.03.2022. The Applicant filed its claim on 31.08.2023 which is after the approval of the Resolution Plan. The Resolution Plan was approved by the CoC in its 12th meeting dated 03.08.2023 (e-voting concluded on 09.08.2023) by 100% voting share.
- iii. Hence, we find that the rejection of the claim was not ultra vires by the Respondent/Resolution Professional and the same has been done in compliance with the provisions of the Code and CIRP Regulations therein. The Respondent is a court-appointed officer and is only undertaking its duties under the Code. Furthermore, the Respondent has within its powers as bestowed upon it by the Code is only acting in furtherance of its duties to achieve the purpose of the Code.
- iv. We find force in the arguments of the Ld. Counsel appearing for the Resolution Professional. Hence, we are of the considered view

that the Resolution Professional has not committed any irregularity w.r.t. the rejection of the claim of the Applicant.

- v. It is an admitted fact that the CIRP of the Corporate Debtor is on the verge of conclusion since the Resolution Plan is pending final adjudication before this Adjudicating Authority.
- vi. Coming to the factual matrix of the present Application, it is a settled law that once the Resolution Plan has been approved by the CoC, the Adjudicating Authority can't go back to look into the nitty-gritty involved in the CIRP of the Corporate Debtor. Therefore, this Adjudicating Authority cannot entertain the present Application which is not sustainable.

6. In view of the above facts and circumstances and the foregoing discussion. It is accordingly ordered as follows:

- i. The Application bearing **IA-5218/2023** filed by the Applicant is **dismissed**.

No order as to costs.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-4225/2023
In
IB-113(ND)/2021

IN THE MATTER OF IB-113(ND)/2021:

M/s. Vistra ITCL (India) Limited **Financial Creditor**

Versus

M/s. Ansal Urban Condominiums Private Limited **Corporate Debtor**

AND IN THE MATTER OF IA-4225/2023:

M/s. Krishna Sahil Constructions Private Limited **Applicant**

Versus

Mr. Rajesh Ramani

Interim Resolution Professional of the Corporate Debtor **Respondent**

Order Pronounced On: 04.07.2024

CORAM:

**SHRI ATUL CHATURVEDI
MEMBER (TECHNICAL)**

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

PRESENT:

For the Applicant : Mr. Vaibhav Dabas, Adv.

For the Respondent : Ms. Priyanshi Tyagi, Adv. a/w Rajesh Rmanani,
RP

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by M/s. Krishna Sahil Constructions Private Limited, the Applicant herein, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 before this Adjudicating Authority, seeking the following reliefs:

“a. Allow the present application; and

b. The Hon'ble Tribunal may be pleased to issue directions to the Interim Resolution Professional to allow the entire claim of Rs.

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IA-4225/2023 In IB-113(ND)/2021
Date of Order: 04.07.2024

18,11,35,440.00 (Rupees Eighteen crores Eleven Lacs Thirty Five Thousand Four Hundred Forty only) filed in FORM B by the Applicant/Operational Creditor and incorporate the same in the List of Operational Creditors; and
c Pass such other or further order/order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.”

2. Brief Background of the Case:

The facts that are relevant for the determination of the issues involved in this application are stated as under:

- i.** An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Financial Creditor i.e. M/s. Vistra ITCL (India) Limited, against the Corporate Debtor i.e. M/s. Ansal Urban Condominiums Private Limited and the said application was admitted ex parte vide order dated 10.03.2022 by this Adjudicating Authority and a moratorium was declared. As proposed by the Financial Creditor, the Respondent herein, Mr. Rajesh Ramnani, having IBBI registration number IBBI/IPA-002/IP-N00993/2020-21/13187, was appointed as the Interim Resolution Professional. Subsequently, he was confirmed as the Resolution Professional of the Corporate Debtor at the first meeting of the Committee of Creditors ("COC") held on 09.04.2022, in terms of Section 22 of IBC.
- ii.** Thereafter, the Resolution Plan was submitted by M/s. One City Infrastructure Private Limited which was approved by the CoC in its 12th meeting dated 03.08.2023 (e-voting concluded on 09.08.2023) by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability. Thereafter, Mr. Rajesh Ramnani, the Resolution Professional of the Corporate Debtor filed IA-4863-2023 to seek approval of the

Resolution Plan under Section 30(6) read with Section 31 of IBC, 2016, which is pending adjudication before this Adjudicating Authority.

3. Submissions of the Applicant:

- i.** It is submitted that the Applicant is aggrieved by the refusal of the Respondent to admit the claim made by the Applicant against the Corporate Debtor. The Interim Resolution Professional rejected the claim of the Applicant vide email dated 27th September, 2022. By way of the impugned decision, the Interim Resolution Professional has acted mechanically, without due application of mind and has rejected the claim of the Applicant on grounds that have no basis in law or facts.
- ii.** Pursuant to the commencement of CIRP against the Corporate Debtor, a public announcement was made by the Respondent in the prescribed Form A on 14.03.2022, under Regulation 6 of the CIRP Regulations wherein the last date of submission of claims was 24.03.2022.
- iii.** It is submitted that the Applicant in the capacity of an Operational Creditor filed its claim against the Corporate Debtor for an amount of Rs.18,11,35,440.00/- vide email dated 09.04.2022 to the Respondent. However, to the utter shock and dismay of the Applicant even after the receipt of the claim form, the Respondent failed/avoided confirming the receipt of the claim. When the Applicant did not receive any response from the Respondent, the Applicant again vide email dated 03.08.2022 filed its claim and requested the Respondent to update the claim filed by the Applicant against the Corporate Debtor. However, the Respondent did not pay any attention to the same and did not update the claim of the Applicant.

- iv.** Thereafter, the Respondent vide email dated 27.09.2022 issued to the Applicant rejected the claim filed by the Applicant/Operational Creditor in an arbitrary and illegal manner. Thereafter, an Application under Section 60(5) of IBC bearing I.A No. 2282 of 2023 was filed before this Adjudicating Authority against rejection of the claim by the Respondent. The said Application was disposed of vide order dated 16.05.2023 and the Adjudicating Authority was pleased to issue directions to the RP/Respondent to consider the claim of the Applicant afresh after the filing of documents by the Applicant.
- v.** The Applicant in compliance of the order dated 16.05.2023 passed by this Adjudicating Authority issued an email dated 16.05.2023 to the Respondent. In fact, a letter dated 16.05.2023 was also issued by the Applicant to the IRP with respect to the same query as to what documents are required. The Respondent issued an email dated 21.05.2023 to the Applicant thereby seeking documents i.e. tax invoices and proof of payment of GST from the Applicant for the purposes of consideration of the claim of the Applicant. The Applicant vide email dated 26.05.2023 again submitted its claim along with all the documents to the Respondent.
- vi.** The Respondent vide email dated 28.05.2023 without considering the contents of the email dated 24.04.2023 informed the Applicant that the Respondent would not be able to accept the claim of the Applicant in the absence of tax invoices. The Applicant submitted that under Regulation 36 of CIRP Regulations, 2016, the RP is duty-bound to collate the claims whose financial information is reflected in the records of the company, even though a claim may not have been filed. It is clear that the Resolution Professional does not have Adjudicatory Authority and is a facilitator with a duty to

vet and verify the claims received by him. In the present case, the Interim Resolution Professional/Resolution Professional has overreached the authorities given under the Code and gone ahead to erroneously adjudicate the claim on the basis of whims that no tax invoice was raised by the Applicant.

4. Submissions of the Respondent:

- i.** The Respondent has filed a reply affidavit denying the allegations made by the Applicant and stated that the Applicant had earlier filed IA No. 2282/2023 against the rejection of the claim of the Applicant by the Respondent. During the course of arguments, the Respondent submitted that relevant documents vis-a-vis Tax Invoice, Delivery Challan, etc. were not submitted by the Applicant and in the absence of the said documents, the claim of the Applicant could not be accepted by the Respondent. Accordingly, this Adjudicating Authority vide order dated 16.05.2023 directed the Applicant to submit the relevant documents as required by the Respondent within one week, whereupon the Respondent was directed to consider the claim within one week thereafter and communicate the decision to the Applicant.
- ii.** It is submitted that despite the specific directions, the Applicant still did not submit either the Tax Invoice, Delivery Challan or proof of payment of GST or any other genuine document (public document/government document) which would have justified the claim of the Applicant. As, the Applicant did not submit any of the desired documents, etc., the Respondent who is duty bound to protect the interest of the stakeholders of the Corporate Debtor, was unable to admit the unverifiable/non-genuine claims of the Applicant (in as much as per the Books of the Corporate Debtor,

no amount was being shown to be due and payable by the Corporate Debtor to the Applicant).

- iii.** It is submitted that the Applicant has not filed any GST/Tax Invoice or any proof of submission of GST in support of its invoice/claim. It is not only a legal requirement but also a common practice in trade/business that in case of a genuine invoice being raised the claimant/creditor raises a Tax/GST Invoice and also requisite GST. Further, in these cases, the Applicant could also have shown delivery challans, etc. in support of its claim. None of which are present in this case.
- iv.** It is further submitted that as per the Books of the Corporate Debtor, no amount was/ is being shown to be due and payable by the Corporate Debtor to the Applicant. All these make the claim of the Applicant bogus and the alleged Katcha/Non-GST Invoices, Bills, etc. sought to be relied upon by the Applicant appear to be sham, bogus, manufactured, questionable and non-genuine, which cannot be accepted by the Respondent as a valid proof of the genuine claim.

5. Analysis and Findings:

- i.** We have heard the submissions of Ld. Counsel appearing for the Applicant as well as Ld. Counsel appearing for the Respondent. We have also perused the records.
- ii.** Admittedly, the Applicant filed its claim for an amount of Rs.18,11,35,440.00/- vide email dated 09.04.2022, which was after the last date of submission of claims of 24.03.2022. Thereafter, the Applicant filed an I.A No. 2282 of 2023 before this Adjudicating Authority against rejection of the claim by the Respondent. The said Application was disposed of vide order dated 16.05.2023 and the Adjudicating Authority was pleased to issue

directions to the RP/Respondent to consider the claim of the Applicant afresh after the filing of documents by the Applicant.

- iii.** A perusal of the email dated 26.05.2023 shows that the Applicant was unable to provide the tax invoices and other relevant documents as sought by the Respondent vide email dated 21.05.2023 and in compliance of the Order dated 16.05.2023 passed by this Adjudicating Authority.
- iv.** Hence, we find that the rejection of the claim was not ultra vires by the Respondent/Resolution Professional and the same has been done in compliance with the provisions of the Code and CIRP Regulations therein. The Respondent is a court-appointed officer and is only undertaking its duties under the Code. Furthermore, the Respondent has within its powers as bestowed upon it by the Code is only acting in furtherance of its duties to achieve the purpose of the Code.
- v.** We find force in the arguments of the Ld. Counsel appearing for the Resolution Professional. Hence, we are of the considered view that the Resolution Professional has not committed any illegality or irregularity w.r.t. the rejection of the claim of the Applicant.
- vi.** It is an admitted fact that the CIRP of the Corporate Debtor is on the verge of conclusion since the Resolution Plan is pending final adjudication before this Adjudicating Authority.
- vii.** Coming to the factual matrix of the present Application, it is a settled law that once the Resolution Plan has been approved by the CoC, the Adjudicating Authority can't go back to look into the nitty-gritty involved in the CIRP of the Corporate Debtor. Therefore, this Adjudicating Authority cannot entertain the present Application which is not sustainable.

6. In view of the above facts and circumstances and the foregoing discussion. It is accordingly ordered as follows:

- i. The Application bearing **IA-4225/2023** filed by the Applicant is **dismissed**.

No order as to costs.

Sd/-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

Sd/-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-1663/2024
In
IB-113(ND)/2021

IN THE MATTER OF IB-113(ND)/2021:

M/s. Vistra ITCL (India) Limited **Financial Creditor**

Versus

M/s. Ansal Urban Condominiums Private Limited **Corporate Debtor**

AND IN THE MATTER OF IA-1663/2024:

M/s. Katra Realtors Private Limited **Applicant**

Versus

Mr. Rajesh Ramani and 2 Ors.

Resolution Professional of the Corporate Debtor **Respondents**

Order Pronounced On: 04.07.2024

CORAM:

**SHRI ATUL CHATURVEDI
MEMBER (TECHNICAL)**

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

PRESENT:

For the Applicant :
For the Respondent : Ms. Priyanshi Tyagi, Adv. a/w Rajesh Rmanani,
RP

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by M/s. Katra Realtors Private Limited, the Applicant herein, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 before this Adjudicating Authority, seeking the following reliefs:

“(a) Pass an order directing the Respondent No.1 herein to re-examine and re-verify the claim submitted by Financial Creditor,

Respondent No. 2 and consequent reduction of the claim of Respondent No.2 and Respondent No.3;

(b) Pass such orders or further orders as it may deem fit and proper in the facts and circumstances of the case.”

2. Brief Background of the Case:

The facts that are relevant for the determination of the issues involved in this application are stated as under:

- i.** An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Financial Creditor i.e. M/s. Vistra ITCL (India) Limited, against the Corporate Debtor i.e. M/s. Ansal Urban Condominiums Private Limited and the said application was admitted ex parte vide order dated 10.03.2022 by this Adjudicating Authority and a moratorium was declared. As proposed by the Financial Creditor, the Respondent herein, Mr. Rajesh Ramnani, having IBBI registration number IBBI/IPA-002/IP-N00993/2020-21/13187, was appointed as the Interim Resolution Professional. Subsequently, he was confirmed as the Resolution Professional of the Corporate Debtor at the first meeting of the Committee of Creditors ("COC") held on 09.04.2022, in terms of Section 22 of IBC.
- ii.** Thereafter, the Resolution Plan was submitted by M/s. One City Infrastructure Private Limited which was approved by the CoC in its 12th meeting dated 03.08.2023 (e-voting concluded on 09.08.2023) by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability. Thereafter, Mr. Rajesh Ramnani, the Resolution Professional of the Corporate Debtor filed IA-4863-2023 to seek approval of the Resolution Plan under Section 30(6) read with Section 31 of IBC,

2016, which is pending adjudication before this Adjudicating Authority.

3. Submissions of the Applicant:

- i.** The Applicant is one of the leading Real Estate and Infrastructure development Companies in the country having vast experience in the real estate industry. The Applicant is a shareholder of the Corporate Debtor holding 8.785% shares of the Corporate Debtor. The Respondent No. 1 is the Resolution Professional of the Corporate Debtor i.e. M/s. Ansal Urban Condominiums Pvt. Ltd. and Respondent No. 2 and Respondent No. 3 are the purported Financial Creditors of the Corporate Debtor.
- ii.** It is submitted that the Respondent No.1 constituted the Committee of Creditors ("COC") with Respondent No. 2 having the majority voting share of 81.73% in the COC, on the basis of the revised claim submitted by the Respondent No. 2 and the representative of homebuyers holding the remaining 18.27%.
- iii.** Pursuant to the commencement of CIRP against the Corporate Debtor, a public announcement was made by the Respondent in the prescribed Form A on 14.03.2022, under Regulation 6 of the CIRP Regulations wherein the last date of submission of claims was 24.03.2022.
- iv.** Thereafter, the Respondent No. 2 allegedly revised its claim and submitted a revised claim in Form C which provided for a total claim of Rs. 373,40,41,606/- against the Corporate Debtor. The claim form filed by Respondent No. 2 did not provide for any calculation or computation to show how the debt amount has been ascertained. It is the duty of the Resolution Professional to examine and verify each claim form, however, the Respondent No.1 blindly accepted the claim form submitted by Respondent No.2.

- v. Upon perusal of the summary of claims, the Respondent No.1 has admitted the claim of Respondent No.2 to the tune of Rs.373,40,41,606/-. It clearly shows that the principal amount which has been admitted qua the Respondent No. 2 is Rs. 100Cr. However, in the claim form placed on record by Respondent No. 2, there are no details or break up or bifurcations regarding the principal and interest components.
- vi. It is submitted that the Respondent No.2 has submitted its claim on the basis of an arbitral award dated 25.03.2019 passed by Ld. Sole Arbitrator in an arbitration proceeding between Vistra ITCL (India) Ltd, the purported Debenture Trustee and Mr. Pranav Ansal and Mr. Gaurav Dalmia. It is stated that the said Award passed in arbitration proceedings between the Debenture Trustee and Mr. Pranav Ansal and Mr. Gaurav Dalmia cannot be taken as the basis for ascertaining the claim of the Corporate Debtor since the said Award was passed in a separate, independent and confidential arbitration proceedings qua those parties and the said Award cannot be the basis for non-verification of the claim of the Respondent No. 2.

4. Submissions of the Respondent No. 1:

- i. The Respondent No. 1 has filed a reply affidavit denying the allegations made by the Applicant and stated that the present Application is nothing but an attempt to re-agitate issues and contentions that formed part of the earlier Application filed by the Applicant i.e. 1A No. 882 of 2023, which was filed, inter alia, on same grounds and cause of action as raised in the present Application. The said Application was dismissed by this Adjudicating Authority vide order dated 24.01.2024, which was affirmed by the Hon'ble Appellate Tribunal by an order dated

04.03.2024 in Company Appeal (AT) (Ins.) No.382 of 2024. The Hon'ble NCLAT while dismissing the Appeal filed by M/s. Katra Realtors Private Limited also held that “*merely on allegation as has sought to be made by the Applicant, the Adjudicating Authority shall not enter into enquiry and decide the allegations for the purpose of deciding the application filed by the Appellant.*”

- ii.** In view of the above the Applicant is precluded to raise the same issues and allegations. The Applicant is estopped from doing something indirectly that it is prohibited from doing directly. The reliefs now sought to be claimed by way of the captioned Application are barred and the captioned Application is liable to be dismissed at the threshold.
- iii.** It is settled law that once a resolution plan has been approved by the CoC and the Admission and Certification Orders have become final, the same cannot be challenged or questioned. Also, any application seeking to start the CIRP de novo at such a stage and effectively negating all the steps carried out to approve the resolution plan by the CoC ought to be dismissed.

5. Submissions of the Respondent No. 3:

- i.** The Respondent No. 3 has filed a reply affidavit denying the allegations made by the Applicant and stated that the underlying debt that is the basis of the claim of Respondent No. 2 is 1,00,00,000 debentures (amounting to INR 100 crores) issued by Corporate Debtor that are transferrable and marketable. The Respondent No. 3 has since acquired all the debentures held by Respondent No. 2 and exercises its rights as a financial creditor to the Corporate Debtor.
- ii.** The Applicant as a shareholder of the Corporate Debtor has no locus to the reliefs claimed in this Application. As per the

explanation appended to Section 30 (2)(b) of the Code, the consent of the shareholders is deemed on the passing of the Resolution Plan. The Hon'ble Appellate Tribunal in **Sita Chaudhary v. Haryana Telecom** reported in (2023) SCC OnLine NCLAT 2212 has categorically held that the constitution of the CoC cannot be questioned once the Admission Order and the Certification Order have attained finality.

- iii. The Supreme Court in **RPS Infrastructure v. Mukul Kumar** reported in (2023) 10 SCC 718 has articulated the principle that once the Resolution Plan is approved by the CoC, no application must be entertained that has the effect of requiring the insolvency process to be re-done from its initiation.
- iv. Order 2, Rule 2 of the Civil Procedure Code, 1908, provides that once a party who claims to be entitled omits to claim on such relief in relation to the same cause of action, cannot afterward be permitted to claim such a relief. This principle is fundamental to ensure the finality of litigation and to avoid multiple rounds of litigation about the same cause of action.

6. Analysis and Findings:

- i. We have heard the submissions of Ld. Counsel appearing for the Applicant as well as Ld. Counsel appearing for the Respondents. We have also perused the records.
- ii. The Ld. Counsel appearing for the Resolution Professional drew our attention to the order dated 24.01.2024 passed in IA No. 882 of 2023, wherein, we dismissed the application filed by M/s. Katra Realtors Private Limited. The Order dated 24.01.2024 is extracted below for ready reference:

“23. A bare perusal of the Provisions contained in Section 27 of the Code makes it amply clear that a proposal for replacement of

*the Resolution Professional has to be initiated and approved by the CoC by a vote of 66% of voting shares. However, in the instant case, the proposal has not been moved by the CoC and the Applicant who is a minority shareholder having 8.785% has moved this application which according to our considered view is not maintainable, therefore, IA **dismissed.**”*

- iii.** We are of the considered view that the Applicant herein is attempting to seek a review of the order dated 24.01.2024 in the guise of filing the present application for seeking urgent directions for re-examination and re-verification of the claim of Financial Creditor. The order dated 24.01.2024 was passed after taking into consideration that *“the Applicant is not a member of the Committee of Creditors and therefore has no locus to seek replacement of the Respondent No.1. The present Application is therefore contrary to the express provisions of the Code.”*
- iv.** Thus, the prayers made in this application cannot be allowed which will amount to a review of the orders passed by this Adjudicating Authority on 24.01.2024. It is a settled principle of law that this Adjudicating Authority has no power to review its order.
- v.** We find that the admission and rejection of the claim was not ultra vires by the Resolution Professional and the same has been done in compliance with the provisions of the Code and CIRP Regulations therein. The Respondent is a court-appointed officer and is only undertaking its duties under the Code. Furthermore, the Respondent has within its powers as bestowed upon it by the Code and is only acting in furtherance of its duties to achieve the purpose of the Code.
- vi.** We find force in the arguments of the Ld. Counsel appearing for the Resolution Professional. Hence, we are of the considered view

that the Resolution Professional has not committed any illegality or irregularity w.r.t. admission of the revised claim of the Respondent No. 2.

- vii.** It is an admitted fact that the CIRP of the Corporate Debtor is on the verge of conclusion since the Resolution Plan is pending final adjudication before this Adjudicating Authority.
- viii.** Coming to the factual matrix of the present Application, it is a settled law that once the Resolution Plan has been approved by the CoC, the Adjudicating Authority can't go back to look into the nitty-gritty involved in the CIRP of the Corporate Debtor. Therefore, this Adjudicating Authority cannot entertain the present Application which is not sustainable.
- ix.** In view of the order dated 24.01.2024 passed by this Adjudicating Authority, we do not find any reason to entertain this application. The Application bearing **IA-1663/2024 dismissed** accordingly.
No order as to costs.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)