

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

IA-1854/2022

In

IB-85(ND)/2021

**IN THE MATTER OF IB-85(ND)/2021:**

**M/s. GK CRYSTAL HOMES**

**..... Operational Creditor**

**VERSUS**

**M/s. ANSAL LOTUS MELANGE PROJECTS PRIVATE LIMITED**

**.....Corporate Debtor**

**AND IN THE MATTER OF IA-1854/2022:**

*Under Section 30(6) r/w Section 31 of IBC, 2016 r/w Regulation 39(4) of IBBI (CIRP Regulations), 2016*

**Mr. DEVENDRA UMRAO**

Resolution Professional of the Corporate Debtor

**..... Applicant/Resolution Professional**

**Pronounced On: 20.11.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant/RP : Mr. P. Nagesh Sr. Adv., Mr. Abhishek Parmar,  
Mr. Akshay Sharma, Advs.

For the SRA :

**ORDER**

**PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)**

1.1. The present application has been filed by Mr. Devendra Umrao, Resolution Professional ("RP") of M/s. Ansal Lotus Melange Projects Private Limited ("Corporate Debtor") on 20.04.2022 under the provisions of Section 30(6) read with Section 31 of the Insolvency & Bankruptcy Code, 2016 ("the Code" or "IBC") read with Regulation 39(4) of the Insolvency Bankruptcy Board of India (Insolvency

**IA-1854/2022 In (IB) – 85(ND)/2021**

**Date of Order: 20.11.2023**

Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”) for approval of the Resolution Plan in respect of M/s. Ansal Lotus Melange Projects Private Limited (“Corporate Debtor”) submitted by Respondent/Successful Resolution Applicant (“SRA”) namely M/s. Singla Builders and Promoters Limited.

1.2. **Brief Background of the Case:**

- i. An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) was filed by the Operational Creditor i.e., M/s. GK Crystal Homes against the Corporate Debtor i.e., M/s. Ansal Lotus Melange Projects Private Limited and the said application was admitted by the order of this Adjudicating Authority vide order dated 07.04.2021 and a moratorium was declared including the appointment of Mr. Devendra Umrao as an Interim Resolution Professional.
- ii. The Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Singla Builders and Promoters Limited which was approved by the CoC in its 8<sup>th</sup> reconvened meeting dated 01.02.2022 (e-voting concluded on 11.02.2022) under Section 30(4) of the IBC by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability.

1.3. **Background of the Corporate Debtor:**

The Corporate Debtor was incorporated on 29.04.2005, as a Company Limited by Shares (Non-govt. Company) having CIN: U45201DL2005PTC135601, under the Companies Act, 1956 with the Registrar of Companies, NCT of Delhi and Haryana. The Authorised Share Capital of the Corporate Debtor was Rs. 10,00,000/- and the Paid-up Share Capital of the Corporate Debtor was Rs. 1,00,000/-. The Registered Office Address of the Corporate Debtor was at 4648/21, Room No. 302, Third Floor Shadumal Building, Daryaganj, New Delhi, Delhi-110002. The Corporate Debtor was incorporated for the purpose of the building of complete constructions or parts thereof under the category of civil engineering.

## **2. Collation of claims by RP**

- 2.1. In terms of Section 13 and Section 15 of the Code, the Applicant/RP has submitted that the public announcement was published in newspapers i.e., Financial Express (English Edition) and Jansatta (Hindi Edition) Delhi NCR and Jalandhar Edition and Jagbani (Jalandhar Edition) on 23.04.2021 in Form-A to invite the stakeholders for submission of their claims.
- 2.2. In response to the public announcement (publication of Form-A) made, the Applicant constituted the Committee of Creditors ("CoC") under Section 21(1) of the Code read with Regulation 13 & 17 of CIRP Regulations and the name of Mr. Navneet Kakkar, Authorised Representative of Homebuyers chosen by the Creditors in Class was approved by this Adjudicating Authority vide order dated 29.07.2021 passed in IA-2664-2021. The 1<sup>st</sup> CoC Meeting was convened on 07.05.2021 wherein the IRP was confirmed as the Resolution Professional (RP) by 100% votes.

## **3. Evaluation and voting**

- 3.1. The 2<sup>nd</sup> CoC Meeting was convened on 25.06.2021 wherein the CoC approved the Appointment of Transaction Auditor. The 3<sup>rd</sup> CoC Meeting was convened on 23.07.2021 wherein the CoC approved the Form-G, Evaluation Matrix and RFRP to decide eligibility criteria as per Section 25(2) of the Code. The RP prepared and issued Information Memorandum of the Corporate Debtor to the members of CoC, in terms of Section 29 of the Code and as per Regulation 36 of the CIRP Regulations.
- 3.2. The Form-G was Published on 01.08.2021 for inviting Expressions of Interest (EoI) in newspapers i.e., Business Standard (English and Hindi Edition) Delhi NCR Edition and Rozana Spokesman (Local Edition) Jalandhar Edition. The Last date of receipt of EoI was 16.08.2021.
- 3.3. The 4<sup>th</sup> CoC Meeting was convened on 19.08.2021 wherein the RP proposed for extension of submission of last date of Resolution Plan and the CoC approved the extension for submission of the Resolution

Plan. The Last date of receipt of EoI was extended to 31.08.2021 from 16.08.2021.

- 3.4. The RP filed an IA-2751-2021, seeking an exclusion of 48 days from the CIRP owing to the nationwide lockdown in view of second wave of Covid-19. This Adjudicating Authority vide order dated 22.09.2021 allowed the exclusion application and the CIRP was extended till 21.11.2021.
- 3.5. The 5<sup>th</sup> CoC Meeting was convened on 22.09.2021 wherein the RP proposed for extension of 90 days of CIRP of the Corporate Debtor and the CoC approved the extension of 90 days of CIRP of the Corporate Debtor. Thereafter, the RP filed an IA-5222-2021, seeking an extension for a period of 90 days of the CIRP. This Adjudicating Authority vide order dated 18.11.2021 allowed the extension application.
- 3.6. The RP received 2 EoI from M/s. Lakshmi Float Glass Limited and from M/s. Singla Builders and Promoters Limited. After examining the EoIs of PRAs, the RP issued the provisional list and the final list of eligible PRAs as per the CIRP Regulations.
- 3.7. The 6<sup>th</sup> CoC Meeting was convened on 28.10.2021. The 7<sup>th</sup> CoC Meeting was convened on 19.11.2021. The 8<sup>th</sup> CoC Meeting was convened on 17.01.2022 wherein the Applicant with permission of the CoC opened the sealed cover of the final Resolution plan received from only one PRA namely M/s. Singla Builders and Promoters Limited. The CoC sought various clarifications from Mr. Chahat Saini, the representative of PRA. Mr. Chahat Saini, the representative of PRA was requested by the CoC to submit a revised Resolution Plan. Thereafter, the 8<sup>th</sup> CoC Meeting was adjourned and reconvened on 01.02.2022, after receiving the revised Resolution Plan. Thereafter, the CoC decided to put the Resolution Plan for e-voting for homebuyers on 08.02.2022 at 12:30pm and concluded on 10.02.2022 at 12:00pm. After conclusion of e-voting, the Resolution Plan submitted by M/s. Singla Builders and Promoters Limited group passed was and approved by the CoC with 100% votes.

3.8. The 9<sup>th</sup> CoC Meeting was convened on 15.02.2022 wherein the Applicant proposed for extension of 30 days of CIRP of the Corporate Debtor and the CoC approved the extension of 30 days of CIRP of the Corporate Debtor. Thereafter, the RP filed an IA-994-2022, seeking an extension for a period of 30 days of the CIRP. This Adjudicating Authority vide order dated 09.03.2022 allowed the extension application

4. The RP submits that a total of 9 (Nine) CoC meetings have been held during the CIRP period which are as follows:

<b>S. No.</b>	<b>Sequence of Meeting of CoC</b>	<b>Date of Meeting</b>	<b>CoC Members Present</b>
1.	First Meeting of CoC	07.05.2021	Yes
2.	Second Meeting of CoC	25.06.2021	Yes
3.	Third Meeting of CoC	23.07.2021	Yes
4.	Fourth Meeting of CoC	19.08.2021	Yes
5.	Fifth Meeting of CoC	22.09.2021	Yes
6.	Sixth Meeting of CoC	28.10.2021	Yes
7.	Seventh Meeting of CoC	19.11.2021	Yes
8.	Eighth Meeting of CoC	17.01.2022	Yes
9.	Eighth Meeting of CoC (Reconvened)	01.02.2022	Yes
10.	Ninth Meeting of CoC	15.02.2022	Yes

The List of the Financial Creditors of the Corporate Debtor being members of the CoC and distribution of voting share is as under:

<b>S. No.</b>	<b>Name of Creditor</b>	<b>Voting Share (%)</b>	<b>Voted For/ Abstained/ Dissented</b>
1.	Mr. Navneet Kakkar, (Authorised Representative of Homebuyers chosen by the Creditors in Class)	100	Voted for

## 5. Valuation of the Corporate Debtor

In terms of Regulation 27 of CIRP Regulations, the Applicant appointed registered valuers who were entitled to determine the fair and liquidation value of the Corporate Debtor, which are as follows:

S.No	Name of the Professional	Registration No.	Fees.
1	Yashwant Kumar Sharma (Plant & Machinery)	IBBI/RV/02/2019/12521	INR 10,000/- plus GST
2	Ratnesh (Land & Building)	IBBI/RV/11/2021/14004	INR 50,000/- plus GST
3	Prateek Mittal (Securities or Financial Assets)	IBBI/RV/05/2018/10021	INR 15,000/- plus GST
4	Aashlesha (Securities or Financial Assets)	IBBI/RV/05/2019/12644	Composite Fees of INR. 75,000/- plus
5	Anand Kumar Prusty (Plant & Machinery)	IBBI/RV/10/2019/12120	GST
6	Deepak Bansal (Land & Building )	IBBI/RV/05/2018/10516	

As per the Form-H, the fair and liquidation value of the assets of the Corporate Debtor are as follows:

The Fair Value of the Corporate Debtor is Rs. 11,76,47,786/- and the Liquidation Value of the Corporate Debtor is Rs. 8,56,27,932/-.

## 6. Details of Resolution Plan/Payment Schedule

The Resolution Applicant has to the extent possible, taken into account the interests of all stakeholders of the Corporate Debtor in the following manner:

### 6.1 Payment of CIRP Cost

The total CIRP cost is assumed to be approx. Rs. 30,00,000/- (Rupees Thirty Lakh Only) upto the date of approval of the Resolution Plan and shall be paid towards full and final payment of the Corporate Insolvency Resolution Process costs payable in terms of Section 30(2)(a) of the Code and Regulation 38(1)(a) of the CIRP Regulations.

Within 30 days from the effective date, the balance of CIRP Costs shall be paid to the Resolution Professional in priority to other creditors of

the Corporate Debtor.

## **6.2 Payment to Dissenting Financial Creditors**

Financial Creditors, who do not vote in favour of the Resolution Plan shall be paid in such a manner as may be specified by the Board and which sum shall not be less than the amount to be paid to such creditors in accordance with Section 53(1) of the IBC, in the event of a liquidation of the Corporate Debtor.

## **6.3 Payment to Financial Creditors (Home Buyer)**

The Home Buyers as specified in the list of Financial Creditor in a class shall be delivered built up flats upon payment of balance receivable without any delay payment or compensation. The Resolution Applicant realises that for a successful resolution, it needs the support and timely payment from Home Buyers, as without that it would not be possible for it to undertake the responsibility to construct and deliver the flats to the Home Buyers. Thus, as a prerequisite, it requires each Home buyer, to pay the amount due from him/her, as per the Construction Linked Plan, which has been provided in Schedule 8.

## **6.4 Payment to Financial Creditors (Commercial Buyer)**

The Resolution Applicant has come to know that the Commercial portion of the City Center Project is complete and requisite approvals are also in place and the Corporate Debtor has already offered possession of commercial units to its allottees and some of the allottees has already taken possession of the commercial units. The Resolution Applicant immediately upon the effective date will call upon the allottee of the commercial units to take possession of their respective units upon payment of their remaining dues.

## **6.5 Payment to Financial Creditors (Studio/Celebrity Suite Buyer)**

The Resolution Applicant requires approximately 6 months to obtain all the approvals/renewals as detailed in Schedule 6 from the respective authorities with respect to the Orchard County project and the possession of the same shall be handed over by the Resolution Applicant to the existing booking holders forming part of the Financial

Creditors in a class, within 6 months from the date of all the approvals, obtained by the Resolution Applicant as provided in the Schedule 6.

#### **6.6 Payment to Operational Creditor**

The Operational Creditors of the Corporate Debtor shall be paid Rs.79,40,484/- (Rupees Seventy Nine Lakh Forty Thousand Four Hundred and Eighty Four Only) of the total admitted amount of Rs. 1,97,77,815/- as towards their full and final settlement as detailed in Schedule 5.

The said payment shall be made in three equal instalments The payment of first instalment shall be made in Qtr 3, Second Instalment in Qtr 4 and Third Instalment in Qtr 5 from the effective date.

#### **6.7 Payment to Other Creditors (other than Financial Creditors and Operational Creditors)**

The Other Creditors of the Corporate Debtor shall be paid Rs. 43,72,530/- of the total admitted amount of Rs. 81,55,356/- as towards their full and final settlement as detailed in Schedule 5.

The said payment shall be made in three equal installments. The payment of first instalment shall be made in Qtr 3, Second Instalment in Qtr 4 and Third Instalment in Qtr 5 from the effective date.

#### **6.8 Claims of the Financial Creditors (Home Buyer, Commercial Buyer and Studio/Celebrity Suite Buyers/Allottees) and Other Creditors admitted after Submission of the present Resolution Plan:**

The claims of the Financial Creditors (Home Buyer, Commercial Buyer and Studio/Celebrity Suite Buyers/Allottees) and Other Creditors if accepted and admitted by the Resolution Professional after the submission of the present Resolution Plan, shall be considered by the Resolution Applicant, and shall be treated at par with the claims of the present Financial Creditors (Home Buyer, Commercial Buyer and Studio Celebrity Suite Buyers/Allottees) and Other Creditors in accordance with Clause 2.9 of Schedule 5.

#### **6.9 Workmen and Employees:** As per the Information Memorandum, it appears that there are no dues towards workmen and Employees and



as such no provisions have been made for them in the Resolution Plan.

**6.10 Unsecured Financial Creditors:** As per the Information Memorandum, it appears that there are no Unsecured Financial Creditors and as such no provisions have been made for them in the Resolution Plan.

**6.11 Shareholders and other Persons:** The entire issued shares shall be compulsorily transferred to the Resolution Applicant with consideration value of Rs. 10/- being the amount payable @ Re. 1 for every 1000 shares held.

**6.12 Term of the Resolution Plan:** The term of the Plan shall commence on the date of the Effective Date and shall be valid till 30 months from the effective date (which includes 6 months for obtaining the necessary sanctions and 24 months for construction as detailed in Schedule 7). The payments are proposed to be made as per Schedule 5.

Summary of Proposed Settlement				
Particulars	Admitted Claims/ deemed CIRP cost	Proposed %	Proposed Settlement	Remarks
	Rs.		Rs.	
IRP costs (approx) (Total)	30,00,000	100%	30,00,000	
Home Buyers/ Commercial Space Buyers/ Celebrity Suit Buyers	10,85,01,852	100%	Home Buyers, Commercial Buyers, Studio/Celebrity Suite Buyers will get the Flat(s)/Commercial Space(s)/Celebrity Suit(s) as per the project completion schedule, thereby no payment is required to be made	
Operational Creditors (for Admitted Claim Amount upto Rs. 50,000)	48,930	100%	48,930	

Operational Creditor (for Admitted Claim Amount more than Rs. 50,000)	1,97,28,885	40%	78,91,554	
Other Creditors (Other than FC and OC)	25,75,970	80%	22,20,776	
(for Admitted Claim Amount upto Rs. 5,00,000)				
Other Creditors (Other than FC and OC) (for Admitted Claim Amount more than Rs. 5,00,000)	53,79,386	40%	21,51,754	
Total			1,53,13,014	

## **7 Waivers, Reliefs, Concessions and Exemptions**

The Resolution Applicant has prayed for the reliefs as enumerated under the Resolution Plan approved by the CoC. From the Resolution Plan approval date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this resolution plan shall stand withdrawn, satisfied and discharged. From the date of approval of the Resolution Plan, the Resolution Applicant shall be legally authorised to seek appropriate orders from respective authorities/courts/tribunals for renewal of licences/withdrawal/dismissal or abatement of the proceeding as the case may be.

The Resolution Plan also provides details of Reliefs and Concessions as already set out in Schedule 9 (Page No. 76-80 of the Resolution Plan).

## **8 Details on Management and Implementation as per the Resolution Plan**

The Resolution Plan also provides details of the Implementation Schedule under Regulation 38(2)(a) of CIRP Regulations, management and control under Regulation 38(2)(b) of CIRP Regulations and under Section 30(2)(c) of IBC, and supervision under Regulation 38(2)(c) of

CIRP Regulations and under Section 30(2)(d) of IBC under the Resolution Plan. The same is already set out in 5. Mandatory Provision under the Code, Page No. 34-39 of the Resolution Plan.

## **9 Details on Fraudulent and Avoidance transaction**

In the 2<sup>nd</sup> CoC meeting, the CoC approved the appointment of Anil Shalini & Associate to conduct an audit of the Corporate Debtor to determine the value of preferential transactions under section 43 of IBC, undervalued transactions under section 45 of IBC, extortionate transactions under section 50 of IBC and transactions with intent to defraud creditors or for any fraudulent purpose under section 66 of the IBC. The Applicant filed an IA-6035-2021 for fraudulent transactions application under Section 66 of the Code and filed an IA-5997-2021 for undervalued transactions/avoidable application under Section 45 of the Code before this Adjudicating Authority on 23.12.2021. The Application is still pending for adjudication and disposal before this Adjudicating Authority.

## **10 Analysis & Findings**

**10.1** This Adjudicating Authority finds that the Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Singla Builders and Promoters Limited which was approved by the CoC in its 8<sup>th</sup> reconvened meeting dated 01.02.2022 (e-voting concluded on 11.02.2022) under Section 30(4) of the IBC by 100% voting share and no provision of the IBC is contravened even if the Resolution Plan value is below the liquidation value. This Adjudicating Authority relied on the Hon'ble Supreme Court's decision in **Maharashtra Seamless Ltd. vs. Padmanabhan Venkatsh and Ors.** (2020) 11 SCC 467 wherein it was held that:

*“28. No provision in the Code or Regulations has been brought to our notice under which the bid of any resolution applicant has to match liquidation value arrived at in the manner provided in Regulation 35 of the CIRP Regulations”.*

**10.2** We find that the Resolution Plan meets the requirement of being a

viable and feasible and for revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.

**10.3** This Adjudicating Authority further relied on the Hon'ble Supreme Court's decision in the matter of "**Vallal RCK vs. M/s. Siva Industries and Holdings Limited and Others, Civil Appeal Nos. 1811-1812 of 2022**"

whereby the Hon'ble Apex Court has answered the question as to whether '**the adjudicating authority (NCLT) or the appellate authority (NCLAT) can sit in an appeal over the commercial wisdom of the Committee of Creditors ("CoC") or not**'. We rely upon the following paragraphs:

*"21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring the completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption that Financial Creditors are fully informed about the viability of the Corporate Debtor and the feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed Resolution Plan and assessment made by their team of experts."*

*A reference in this respect could be made to the judgments of this Court in the cases of "**K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.***

*27. This Court has, time and again, emphasized the need or minimal judicial interference by the NCLAT and NCLT in the*

framework of IBC. We may refer to the recent observation of this Court made in the case of **Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:**

.....

“95. However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The Legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC”

**10.4** In light of the above-quoted judgements, it is clear that the **“Commercial wisdom of CoC”** is given paramount status. This Adjudicating Authority is not endowed with the powers of jurisdiction or authority to analyse or evaluate the commercial decision of the CoC. The Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Singla Builders and Promoters Limited which was approved by the CoC in its 8<sup>th</sup> reconvened meeting dated 01.02.2022 (e-voting concluded on 11.02.2022) under Section 30(4) of the IBC by 100% voting share, this Adjudicating Authority cannot interfere in the same.

**10.5** On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 25(2)(h), 29A, 30(2), 30(4) and 31(1) of the IBC and also complies with Regulations 35A, 36B(4A), 37, 38(1), 38(1A), 38(1B), 38(2), 38(3), 39(1), 39(2) and 39(4)

of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Applicant/RP has filed a Compliance Certificate in the prescribed Form, i.e., **Form-H** as per the amended Resolution Plan in compliance with Regulation 39(4) of the CIRP Regulations. The Applicant/RP submits that the Successful Resolution Applicant is not disqualified under Section 29A of the Code to submit the Resolution Plan, as required by Regulation 39(1)(a) of the CIRP Regulations. A separate undertaking has also been submitted along with the EoI by the Successful Resolution Applicant, as mandated in terms of Regulation 39(1)(c) of the CIRP Regulations.

**10.6** The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.

**10.7** As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.

**10.8** In case of non-compliance of this order or withdrawal of the Resolution Plan within the stipulated time, in addition to other consequences which follow under law, the CoC shall forfeit the EMD already paid by the SRA as well as the PBG.

**10.9** The present application has been filed with bonafide means, in the interest of justice and to advance the objectives of the Code.

## **11 Orders**

**11.1** The **IA-1854/2022** which is for approval of the Resolution Plan is **allowed** and the Resolution Plan of Rs. 1,53,13,014/- (Rupees One Crore Fifty Three Lakh Thirteen Thousand and Fourteen Only) is **approved. The Resolution Plan shall form part of this Order. “Effective Date”** means the date on which this Resolution Plan is approved by this Adjudicating Authority under Section 31 of the Code. The main Company Petition, i.e., **IB-85(ND)/2021** stands **dismissed** accordingly.

- 11.2** The Resolution Plan is binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan, so that the revival of the Corporate Debtor Company shall come into force with immediate effect.
- 11.3** The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- 11.4** Further from the effective date and until the transfer date, a 3-member Monitoring Committee or Managing Committee is to be constituted. The Committee shall consist of one representative of the Resolution Applicant, one representative of the CoC and the Resolution Professional.
- 11.5** The RP shall submit the records collected during the commencement of the proceedings to the Insolvency and Bankruptcy Board of India (“IBBI”) for their record.
- 11.6** Liberty is hereby granted for moving appropriate application(s), if required in connection with the implementation of this Resolution Plan.
- 11.7** A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, (RoC), NCT of Delhi & Haryana. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the RoC, for information and record.
- 11.8** The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- 11.9** The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties

that are enjoined upon him for implementation of the approved Resolution Plan. Further, the Resolution Professional shall supervise the implementation of the Resolution Plan and file the status of its implementation before this Authority from time to time, preferably every quarter.

**11.10** Further, in terms of the Judgment of the Hon'ble Supreme Court in the matter of **Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited** Civil Appeal No. 8129 of 2019, wherein the Hon'ble Supreme Court held that on the date of the approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of the Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claims which are not a part of the Resolution Plan.

**11.11** The Resolution Professional is further directed to hand over all records, premises/factories/documents available with it to the Successful Resolution Applicant to finalise the further line of action required for starting the operation. The Successful Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting operations of the Corporate Debtor.

**11.12** The Registry is hereby directed to send copies of the order forthwith to the IBBI, all the parties and their Ld. Counsel for information and for taking necessary steps.

**11.13** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

File be consigned to the record.

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-4089/2023

In

IB-85(ND)/2021

**IN THE MATTER OF IB-85(ND)/2021:**

**M/s. GK CRYSTAL HOMES**

**..... Operational Creditor**

**VERSUS**

**M/s. ANSAL LOTUS MELANGE PROJECTS PRIVATE LIMITED**

**.....Corporate Debtor**

**IN THE MATTER OF IA-4089/2023:**

**Mr. ASHWANI KUMAR KAURA**

**..... Applicant**

**VERSUS**

**Mr. DEVENDRA UMRAO**

Resolution Professional of the Corporate Debtor

**..... Respondent**

**Order Delivered On: 20.11.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant :

For the RP : Mr. P. Nagesh Sr. Adv., Mr. Abhishek Parmar, Mr. Akshay Sharma, Advs.

**ORDER**

**PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)**

1. The present Application has been filed by Mr. Ashwani Kaura, the Applicant (Allottee/Financial Creditor) on 27.07.2023 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, for seeking the following reliefs:

**IA-4089/2023 In IB-85(ND)/2021**

**Date of Order: 20.11.2023**

*“a. Direct the Respondent/RP to consider the claim of the Applicant in Form CA as Financial Creditors; AND/OR*

*b. Admit the entire claim of the Applicant, as claimed in the form; AND/OR*

*c. Pass any such further order(s) as this Hon’ble Adjudicating Authority may deem fit and proper.”*

**2. Brief Background of the Case**

- i. An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Operational Creditor i.e., M/s. GK Crystal Homes against the Corporate Debtor i.e., M/s. Ansal Lotus Melange Projects Private Limited and the said application was admitted by the order of this Adjudicating Authority vide order dated 07.04.2021 and a moratorium was declared including the appointment of Mr. Devendra Umrao as an Interim Resolution Professional.
  - ii. The Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Singla Builders and Promoters Limited which was approved by the CoC in its 8<sup>th</sup> reconvened meeting dated 01.02.2022 (e-voting concluded on 11.02.2022) under Section 30(4) of the IBC by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability.
3. The Applicant is aggrieved by the wrongful partial rejection of the claim and not considering the claim of the Applicant as a Financial Creditor by the Respondent/RP.
  4. The Applicant applied for purchasing of a shop in the proposed Retail cum Commercial Office complex 'City Centre' Kharar Landran Road, Mohali, Punjab developed by the Corporate Debtor. The total cost of the Unit was fixed as Rs.67,86,000/- (Rupees Sixty Seven Lakh Eighty Six Thousand Only) calculated at the rate of Rs.3900/- per sq. feet. The Applicant paid the same amount in full, and the Corporate Debtor issued receipts for the same.

5. The Corporate Debtor allotted Unit 5 GF in project 'City Centre', Kharar Landran Road, Mohali, Punjab to the Applicant vide Allotment Letter cum Agreement dated 09.02.2010 with detailed Terms and Conditions of Appointment.
6. The Corporate Debtor and Applicant entered into an Addendum Agreement dated 12.05.2012 wherein it was agreed that the Applicant will be allotted basement of Unit 5 GF to the Applicant and the consideration for the same of Rs.12,14,000/- will be adjusted out of the Assured Return of Rs. 1,86,615/- as agreed in the Clause 5 of the Allotment Agreement to be paid to the Applicant. Thus, the Total Consideration for the Unit 5 GF + Basement paid by Applicant is now Rs. 80,00,000/-.
7. The Corporate Debtor failed to deliver possession within the stipulated time period of 36 months. The Applicant sent a Notice dated 24.07.2013 to the Corporate Debtor, asking the Corporate Debtor to deliver possession within 30 days or refund the whole amount along with Interest.
8. The Applicant, in the year 2021, came to know that the Corporate Debtor has gone into insolvency. Thereafter, Applicant has filed the claim to the Resolution Professional vide email dated 26.05.2021 in form CA for Rs. 7,58,01,360/- with all the other relevant documents, pursuant to the public announcement dated 12.04.2021.
9. Vide email dated 27.05.2021, it was informed to the Applicant by Respondent/RP that since the offer of possession has already been made, therefore, he is required to file his claim in Form F. In response, the Applicant wrote to the Respondent/RP on 01.07.2021, that the project was not complete at the time when the possession was offered and the completion certificate was not shown to him at the time of offering possession. Further, there is a breach of contract as the possession was not offered within the stipulated time. Therefore, a request was made to consider his claim as it is.
10. No response was received from the Respondent/RP. Therefore, on 28.10.2021, the Applicant had also submitted his claim in Form F.

Since the applicant had submitted his claims both in Form CA and Form F, a request was made to consider his claim, as per law.

11. On 02.09.2022, it was informed to the applicant by the Respondent/ RP that his claim in respect of unit no. 5 GF+ Basement at "City Centre", Mohali, was admitted for Rs.28,55,210/- only which was wrong and without any basis. The Applicant in response sent email dated 17.09.2022 objected to the decision of the Respondent/RP in admitting only part amount of claim and requested him to reconsider the same on the basis of documents submitted with his claim. It was also requested by the Applicant to provide the calculations for the amount admitted by the RP. However, the Respondent/ RP failed to respond.
12. The Applicant preferred an Application bearing IA-1313/2023, seeking direction against the Respondent/RP to accept his claim as a Financial Creditor and for admitting the full amount. This Adjudicating Authority vide order dated 26.05.2023, allowed the IA-1313/2023 and the order is reproduced below:

**“IA-1313/2023:-**

*This application has been filed seeking to the RP to reconsider and accept the entire claims of the Applicants and include them as the members of CoC.*

*The Ld. Counsel appearing for the Applicant has relied upon a judgment passed by Hon’ble National Company Law Appellate Tribunal in the matter of **Puneet Kaur Vs. K V Developers Private Limited in Company Appeal (AT)(Ins.) No. 390 of 2020** and submitted that necessary directions be given to the Resolution Professional to consider the claims of the Applicant in the light of the directions given by the Hon’ble NCLAT.*

*The Ld. Counsel appearing for the Resolution Professional has submitted that the Resolution Professional is willing to reconsider the claims in case this Tribunal passes necessary direction.*

*Having heard the submissions of Ld. Counsel appearing for the parties, we direct the Resolution Professional to consider the claims in*

*accordance with law and communicate the decision to the Applicant within a week.*

**IA allowed.”**

13. We have heard the Ld. Counsels appearing for both parties and also perused the documents on record.
14. We find that in compliance of the Order dated 26.05.2023, the Respondent re-inspected/verified the claim of the Applicant and sent an email dated 13.06.2023 and admitted the claim for Rs. 40,40,465/- i.e. increased by Rs. 11,85,255/- from 28,55,210/- and gave a detailed reply to the Applicant by giving the reasons on which the claim was re-inspected/verified which is reproduced below:

Email dated 13.06.2023:

*“g. That after the payment of consideration in full of basement through adjustment of assured return, the Corporate Debtor should have paid assured return at a rate of 11% per annum as compensation i.e. amount Rs. 2,20,000/- for each quarter, calculated on the entire amount deposited by you i.e. Rs.80,00,000/- till offer of possession of the said unit.*

*h. That the Corporate Debtor has defaulted in payment of the aforesaid assured return, for which this instant claim was filed by your good self, wherein you have claimed for assured return along with penal interest @ 2% per month on the said assured return. However, neither the original allotment letter nor the addendum to the original allotment letter provides for any other compensation/delayed interest/penalty for non-payment of assured return etc. to paid by the Corporate Debtor.*

*i. That as per the records of the Corporate Debtor available with us, the Corporate Debtor has already obtained the required Certificate in respect of the said unit/s, issued by the concerned appropriate authority; and on basis of which, the physical possession of the said unit was offered to you on 30-09-2020.*

*j. That it is an admitted fact that as per the terms of the said allotment letter, it is understood and admitted fact that once the*

*corporate debtor offered the possession of the unit, the amount accumulated and payable on account of assured return, till date of such offer of possession stands final, and no further interest will be continued to accrue and payable by the Corporate Debtor.”*

15. On perusal of the email dated 13.06.2023, it is clear that the Resolution Professional has considered the claim as directed by this Adjudicating Authority by order dated 26.05.2023 passed in IA-1313/2023. In compliance of the Order dated 26.05.2023 passed in IA-1313/2023, the Resolution Professional already revised the claim for Rs. 40,40,465/- from 28,55,210/-.
16. We therefore do not wish to interfere with the decision of the Resolution professional and hold that the Resolution Professional has applied his mind and passed a detailed and reasoned e-mail regarding the claim.
17. We are of the considered view that if such claims are allowed, then this Adjudicating Authority will continue to receive further such applications and the case will never reach resolution. Further, it will also cause a hurdle to the Successful Resolution Applicant in executing the Resolution Plan.
18. In view of the above, the IA-4089/2023 stands **dismissed**.

**Sd/-**

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

**Sd/-**

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

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

IA-4229/2023

In

IB-85(ND)/2021

**IN THE MATTER OF IB-85(ND)/2021:**

**M/s. GK CRYSTAL HOMES**

**..... Operational Creditor**

**VERSUS**

**M/s. ANSAL LOTUS MELANGE PROJECTS PRIVATE LIMITED**

**.....Corporate Debtor**

**IN THE MATTER OF IA-4229/2023:**

**Mr. ASHWANI KUMAR KAURA**

**..... Applicant**

**VERSUS**

**Mr. DEVENDRA UMRAO**

Resolution Professional of the Corporate Debtor

**..... Respondent**

**Order Delivered On: 20.11.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant :

For the RP : Mr. P. Nagesh Sr. Adv., Mr. Abhishek Parmar, Mr.  
Akshay Sharma, Advs.

**ORDER**

**PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)**

1. The present Application has been filed by Mr. Ashwani Kaura, the Applicant (Allottee/Financial Creditor) on 08.08.2023 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, for seeking the following reliefs:

**IA-4229/2023 In IB-85(ND)/2021**

**Date of Order: 20.11.2023**

*“a. Direct the Respondent/RP to consider the claim of the Applicant in Form CA as Financial Creditors; AND/OR*

*b. Admit the entire claim of the Applicant, as claimed in the form; AND/OR*

*c. Pass any such further order(s) as this Hon’ble Adjudicating Authority may deem fit and proper.”*

**2. Brief Background of the Case**

- i. An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Operational Creditor i.e., M/s. GK Crystal Homes against the Corporate Debtor i.e., M/s. Ansal Lotus Melange Projects Private Limited and the said application was admitted by the order of this Adjudicating Authority vide order dated 07.04.2021 and a moratorium was declared including the appointment of Mr. Devendra Umrao as an Interim Resolution Professional.
  - ii. The Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Singla Builders and Promoters Limited which was approved by the CoC in its 8<sup>th</sup> reconvened meeting dated 01.02.2022 (e-voting concluded on 11.02.2022) under Section 30(4) of the IBC by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability.
3. The Applicant is aggrieved by the wrongful partial rejection of the claim and not considering the claim of Applicant as Financial Creditor by the Respondent/Resolution Professional.
  4. The Applicant applied for purchasing of a shop in the proposed Retail cum Commercial Office complex 'City Centre' Kharar Landran Road, Mohali, Punjab developed by the Corporate Debtor. The total cost of the Unit was fixed as Rs.63,06,300/- (Rupees Sixty Three Lakh Six Thousand Three Hundred Only) calculated at the rate of Rs.3900/- per sq. feet. The Applicant paid the same amount in full, and the Corporate Debtor issued receipts for the same.



5. The Corporate Debtor allotted Unit 1 GF in project 'City Centre', Kharar Landran Road, Mohali, Punjab to the Applicant vide Allotment Letter cum Agreement dated 08.03.2010 with detailed Terms and Conditions of Appointment.
6. The Corporate Debtor and Applicant entered into an Addendum Agreement dated 12.05.2012 wherein it was agreed that the Applicant will be allotted basement of Unit 1 GF to the Applicant and the consideration for the same of Rs.16,93,700/- will be adjusted out of the Assured Return of Rs. 1,73,423/- as agreed in the Clause 5 of the Allotment Agreement to be paid to the Applicant. Thus, the Total Consideration for the Unit 1 GF + Basement paid by Applicant is now Rs. 80,00,000/-.
7. The Corporate Debtor failed to deliver possession within the stipulated time period of 36 months. The Applicant sent a Notice dated 24.07.2013 to the Corporate Debtor, asking the Corporate Debtor to deliver possession within 30 days or refund the whole amount along with Interest.
8. The Applicant, in the year 2021, came to know that the Corporate Debtor has gone into insolvency. Thereafter, Applicant has filed the claim to the Resolution Professional vide email dated 26.05.2021 in form CA for Rs. 6,84,19,802/- with all the other relevant documents, pursuant to the public announcement dated 12.04.2021.
9. Vide email dated 27.05.2021, it was informed to the Applicant by Respondent/Resolution Professional that since offer of possession has already been made, therefore, he is required to file his claim in Form F. In response, the Applicant wrote to the Respondent/ Resolution Professional on 01.07.2021, that the project was not complete at the time when the possession was offered and the completion certificate was not shown to him at the time of offering possession. Further, there is a breach of contract as the possession was not offered within the stipulated time. Therefore, a request was made to consider his claim as it is.

10. No response was received from the Respondent/Resolution Professional. Therefore, on 28.10.2021, the Applicant had also submitted his claim in Form F. Since the applicant had submitted his claims both in Form CA and Form F, a request was made to consider his claim, as per law.
11. On 02.09.2022, it was informed to the applicant by the Respondent/Resolution Professional that his claim in respect of unit no. 1 GF + Basement at "City Centre", Mohali, was admitted for Rs.26,53,372/- only which was wrong and without any basis. The Applicant in response sent email dated 17.09.2022 objected to the decision of the Respondent/Resolution Plan in admitting only part amount of claim and requested him to reconsider the same on the basis of documents submitted with his claim. It was also requested by the Applicant to provide the calculations for the amount admitted by the Resolution Plan. However, the Respondent/Resolution Professional failed to respond.
12. The Applicant preferred an Application bearing IA-1310/2023, seeking direction against the Respondent/Resolution Professional to accept his claim as a Financial Creditor and for admitting the full amount. This Adjudicating Authority vide order dated 26.05.2023, allowed the IA-1310/2023 and the order is reproduced below:

**“IA-1310/2023:-**

*This application has been filed seeking to the RP to reconsider and accept the entire claims of the Applicants and include them as the members of CoC.*

*The Ld. Counsel appearing for the Applicant has relied upon a judgment passed by Hon’ble National Company Law Appellate Tribunal in the matter of **Puneet Kaur Vs. K V Developers Private Limited in Company Appeal (AT) (Ins.) No. 390 of 2020** and submitted that necessary directions be given to the Resolution Professional to consider the claims of the Applicant in the light of the directions given by the Hon’ble NCLAT.*

*The Ld. Counsel appearing for the Resolution Professional has submitted that the Resolution Professional is willing to reconsider the claims in case this Tribunal passes necessary direction.*

*Having heard the submissions of Ld. Counsel appearing for the parties, we direct the Resolution Professional to consider the claims in accordance with law and communicate the decision to the Applicant within a week.*

**IA allowed.”**

13. We have heard the Ld. Counsels appearing for both parties and also perused the documents and emails on record.

14. We find that in compliance of the Order dated 26.05.2023, the Respondent re-inspected/verified the claim of the Applicant and sent an email dated 13.06.2023 and admitted the claim for Rs. 41,59,190/- i.e. increased by Rs. 15,05,818/- from 26,53,372/- and gave a detailed reply to the Applicant by giving the reasons on which the claim was re-inspected/verified which is reproduced below:

Email dated 13.06.2023:

*“g. That after the payment of consideration in full of basement through adjustment of assured return, the Corporate Debtor should have paid assured return at a rate of 11% per annum as compensation i.e. amount Rs. 2,20,000/- for each quarter, calculated on the entire amount deposited by you i.e. Rs.80,00,000/- till offer of possession of the said unit.*

*h. That the Corporate Debtor has defaulted in payment of the aforesaid assured return, for which this instant claim was filed by your good self, wherein you have claimed for assured return along with penal interest @ 2% per month on the said assured return. However, neither the original allotment letter nor the addendum to the original allotment letter provides for any other compensation/delayed interest/penalty for non-payment of assured return etc. to paid by the Corporate Debtor.*

*i. That as per the records of the Corporate Debtor available with us, the Corporate Debtor has already obtained the required*

*Certificate in respect of the said unit/s, issued by the concerned appropriate authority; and on basis of which, the physical possession of the said unit was offered to you on 30-09-2020.*

*j. That it is an admitted fact that as per the terms of the said allotment letter, it is understood and admitted fact that once the corporate debtor offered the possession of the unit, the amount accumulated and payable on account of assured return, till date of such offer of possession stands final, and no further interest will be continued to accrue and payable by the Corporate Debtor.”*

15. On perusal of the email dated 13.06.2023, it is clear that the Resolution Professional has considered the claim as directed by this Adjudicating Authority by order dated 26.05.2023 passed in IA-1310/2023. In compliance of the Order dated 26.05.2023 passed in IA-1310/2023, the Resolution Professional already revised the claim for Rs. 41,59,190/- from 26,53,372/-.
16. We therefore do not wish to interfere with the decision of the Resolution professional and hold that the Resolution Professional has applied his mind and passed a detailed and reasoned e-mail regarding the claim.
17. We are of the considered view that if such claims are allowed, then this Adjudicating Authority will continue to receive further such applications and the case will never reach resolution. Further, it will also cause a hurdle to the Successful Resolution Applicant in executing the Resolution Plan.
18. Therefore, in view of the above, the IA-4229/2023 stands **dismissed**.

**Sd/-**

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

**Sd/-**

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