

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI  
COURT – IV

I.A. No. 3983 of 2024  
IN  
C.P. (IB) No. 1224/MB/2020

*[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016]*

**Edelweiss Asset Reconstruction Company Ltd.**

*...Applicant*

v/s.

**Fab Metals Private Limited**

*... Respondent No.1*

**Ms. Kanak Jani, RP of Premier Limited**

*... Respondent No. 2*

**WITH**

I.A. No. 4485 of 2024  
IN  
C.P. (IB) No. 1224/MB/2020

*[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016,  
r/w. Rule 11 of NCLT Rules, 2016]*

**CA Kanak Jani**

***Resolution Professional of M/s. Premier Ltd.***

*...Applicant*

v/s.

**Highway Authority, Maharashtra State Road  
Development Corporation Ltd., Mumbai**

*... Respondent No.1*

**Committee of Creditors of Premier Ltd.**

*...Respondent No.2*

---

<b>Edelweiss Asset Reconstruction Company Limited</b>	<b>... Respondent No. 3</b>
<b>TJSB Sahakari Bank Ltd.</b>	<b>...Respondent No.4</b>
<b>Union Bank of India</b>	<b>...Respondent No.5</b>
<b>Edmond Finvest Private Limited</b>	<b>...Respondent No. 6</b>
<b>Khanna Corporate Services Pvt. Ltd.</b>	<b>...Respondent No. 7</b>
<b>Sahney Kirkwood Pvt. Ltd.</b>	<b>...Respondent No. 8</b>
<b>Runwal Developers Pvt. Ltd.</b>	<b>...Respondent No. 9</b>
<b>Ukilachand Mercantile Pvt. Ltd.</b>	<b>...Respondent No. 10</b>
<b>Anand Rathi Global Finance Limited</b>	<b>...Respondent No. 11</b>
<b>Swal Corporation Ltd.</b>	<b>...Respondent No. 12</b>
<b>R Retail Ventures Pvt. Ltd.</b>	<b>...Respondent No. 13</b>
<b>Bachhraj &amp; Company Pvt. Ltd.</b>	<b>...Respondent No. 14</b>

**WITH**

**I.A. No. 4759 of 2024**  
**IN**  
**C.P. (IB) No. 1224/MB/2020**

*[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016]*

**Fab Metals Pvt. Ltd.**

***...Applicant***

v/s.

**Kanak Jani RP of Premier Limited**

***...Respondent No. 1***

**Edelweiss Asset Reconstruction Company Limited**

***...Respondent No. 2***

**Highway Authorities Maharashtra State Road**

**Development Corporation Limited, Mumbai.**

***...Respondent No. 3***

***WITH***

**I.A. No. 3071 of 2025  
IN  
C.P. (IB) No. 1224/MB/2020**

*[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016]*

**Edelweiss Asset Reconstruction Company Ltd.**

***...Applicant***

v/s.

**Fab Metals Pvt. Ltd.**

***...Respondent No.1***

---

<b>Ms. Kanak Jani RP of Premier Limited</b>	<b><i>...Respondent No.2</i></b>
<b>Anand Rathi Global Finance Limited</b>	<b><i>...Respondent No.3</i></b>
<b>Edmond Finvest Private Limited</b>	<b><i>...Respondent No.4</i></b>
<b>Runwal Developers Pvt. Ltd.</b>	<b><i>...Respondent No.5</i></b>
<b>R Retail Ventures Pvt. Ltd.</b>	<b><i>...Respondent No.6</i></b>
<b>TJSB Sahakari Bank Ltd.</b>	<b><i>...Respondent No.7</i></b>
<b>Union Bank of India</b>	<b><i>...Respondent No.8</i></b>
<b>Khanna Corporate Services Pvt. Ltd.</b>	<b><i>...Respondent No.9</i></b>
<b>Sahney Kirkwood Pvt. Ltd.</b>	<b><i>...Respondent No.10</i></b>
<b>Ukilachand Mercantile Pvt. Ltd.</b>	<b><i>...Respondent No.11</i></b>
<b>Swal Corporation Ltd.</b>	<b><i>...Respondent No.12</i></b>
<b>Bachhrah &amp; Company Pvt. Ltd.</b>	<b><i>...Respondent No.13</i></b>

**In the matter of:**

---

**Anand Rathi Global Finance Limited**

(CIN: U67190MH1982PLC140380)

**...Financial Creditor**

v/s.

**Premier Ltd.**

(CIN: L34103PN1944PLC020842)

**...Corporate Debtor**

**Pronounced: 18.06.2026**

**CORAM:**

**ANIL RAJ CHELLAN**  
**HON'BLE MEMBER (TECHNICAL)**

**K.R. SAJI KUMAR**  
**HON'BLE MEMBER (JUDICIAL)**

**Appearances : Hybrid**

**IA No. 3983/2024**

For Applicant : Sr. Adv. Vikram Nankani a/w Adv. Nisha Kaba a/w. Adv. Shivani Sinha, Adv. Meera Murali.

For Respondent No. 1 : Adv. Rohit Gupta a/w. Adv. Abha Patel, Adv. Rubina Khan i/b Fortis India Law

For Respondent No. 2 : Adv. Akshay Petkar a/w. Adv. Suyesha Kakarla i/b. Economic Laws Practice.

**IA No. 4485/2024**

For Applicant : Adv. Akshay Petkar a/w Adv. Suyesha

---

Kakarla i/b. Economic Laws Practice.

For Respondent No. 3 : Sr. Adv. Vikram Nankani, a/w Adv. Nisha  
Kaba a/w. Adv. Shivani Sinha, Adv.  
Meera Murali.

For Respondent No. 5 : Adv. Ayman Khan

For Respondent No. 11 : Adv. Prathamesh Nirkhe.

For Respondent Nos. 9 & 13 : Adv. Nikita Abhyankar.

**IA No. 4759/2024**

For Applicant : Adv. Rohit Gupta a/w. Adv. Abha Patel,  
Adv. Rubina Khan i/b Fortis India Law

For Respondent No. 1 : Adv. Akshay Petkar a/w Adv. Suyesha  
Kakarla i/b. Economic Laws Practice.

For Respondent No. 2 : Sr. Adv. Vikram Nankani a/w Adv. Nisha  
Kaba a/w. Adv. Shivani Sinha, Adv.  
Meera Murali.

**IA No. 3071/2025**

For Applicant : Sr. Adv. Vikram Nankani a/w Adv. Nisha  
Kaba a/w. Adv. Shivani Sinha, Adv.  
Meera Murali.

For Respondent No. 1 : Adv. Rohit Gupta a/w. Adv. Abha Patel,  
Adv. Rubina Khan i/b Fortis India Law

For Respondent No. 2 : Adv. Akshay Petkar a/w Adv. Suyesha  
Kakarla i/b. Economic Laws Practice.

For Respondent Nos. 5 & 6 : Adv. Nikita Abhyankar.

---

**COMMON ORDER**

***Per: Anil Raj Chellan, Member (Technical)***

1. The present batch of Interlocutory Applications (IAs) arises on account of the receipt of notices from the Competent Authority under the Maharashtra Highways Act, 1955 (Highways Act), in connection with the acquisition of a certain portion of the land owned by Premier Ltd. (Corporate Debtor), during the pendency of the application for approval of the Resolution Plan before this Tribunal. Since all these IAs are filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (Code/IBC), and the issues in these IAs are interconnected, we propose disposing of them in this Common Order.

2. **Brief Facts**

- 2.1 The Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor was initiated *vide* order of this Tribunal dated 29.01.2021, pursuant to which Ms. Kanak Jani was appointed as the Interim Resolution Professional (IRP). The IRP made the public announcement on 04.02.2021, as contemplated under Section 15 of the Code, and invited claims from all creditors. Based on the claims received, the IRP constituted the Committee of Creditors (CoC) on 25.02.2021. At the 1<sup>st</sup> meeting of CoC, the IRP was confirmed as the Resolution Professional (RP).
- 2.2 As per the decision of the CoC, the RP published Form G on 10.03.2021 for the invitation of Expression of Interest (Eoi) under Regulation 36A (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution

---

Process for Corporate Persons) Regulations, 2016 (CIRP Regulations). In response to the same, the RP received two resolution plans. However, the plan value was considerably less than the liquidation value. The CoC, therefore, decided to publish a fresh Form G.

- 2.3 Accordingly, RP published fresh Form G on 22.07.2021, for EoI under Regulation 36A of the CIRP Regulations. The RP received only one resolution plan, which was also below the liquidation value. In the circumstances, the CoC resolved to issue another Form G.
- 2.4 The RP again issued a fresh Form G on 04.10.2021. The CoC, at its 17<sup>th</sup> meeting held on 22.01.2022, discussed seven resolution plans received in response to this Form G and approved the resolution plan, along with an addendum, submitted by Fab Metals Private Ltd & Persons Acting in Consent and Others (Successful Resolution Applicant/SRA), by a majority vote of 92.47%. After receipt of performance security from the SRA, the RP filed I.A. No. 395/2022, on 11.02.2022 for approval of the Resolution Plan (Resolution Plan Application), which is pending consideration of this Adjudicating Authority.
- 2.5 Subsequently, the RP received three notices from the office of Sub-Divisional Office (SDO) Kalyan, in its capacity as the PWC/Competent Authority (Competent Authority) for acquiring certain land for the purpose of the Project, viz., 'Virar-Alibag Multipurpose Margika (State Highway (Special No. 4)'. In exercise of the powers conferred under Section 18(1) of the Highways Act, the Competent Authority initiated steps to acquire the following land parcels situate in Kalyan Taluka of Thane District, Maharashtra, by issuing the following Acquisition Notices:

- 
- i. **Notice** No. 353/24 dated 24.05.2024 (received on 20.06.2024) concerning lands at Survey Nos. 73, 227 and 228 in Village Bhopar, Taluka Kalyan, District Thane (Area 24619 sq. mts),
  - ii. **Notice** No. 343/24 dated 24.05.2024 (received on 20.06.2024) concerning Survey Nos. 99, 132, 120/5, 58/1, 58/2, 62, 61, and 59 in Village Katai, Taluka Kalyan, District Thane (Area 12100 sq.mts); and
  - iii. **Notice** No. 448/24 dated 09.07.2024 (received on 15.07.2024) concerning Survey Nos. 31/1, 31/3, 31/4, 31/5, 31/6, 46 and 59/2 in Village Gharivali, Taluka Kalyan, District Thane (Area 3200 sq. mts).
- 2.6 When the Acquisition Notices came to the knowledge of the CoC, Edelweiss Asset Reconstruction Company Limited (EARC), the sole secured financial creditor of the Corporate Debtor and member of the CoC holding 92.47% of the voting share, filed IA. No. 3983/2024 on 26.07.2024 (EARC First Application) against the SRA (Respondent No.1) and the RP (Respondent No.2) seeking the following reliefs:
- a. *Allow the Applicant to intervene and make submissions in the Plan Approval Application, i.e., IA. No. 395 of 2022;*
  - b. *Pass an order directing that the Net Gain arising out of the Acquisition Land, if any (detailed at paragraph 12 of this application), shall be for the benefit of the Applicant and other stakeholders of the Corporate Debtor and shall not be for the benefit of Fab Metals Private Limited;*
  - c. *Pass an order directing that such Net Gain, upon receipt should be*

---

*appropriated amongst the Applicant and the other stakeholders of the Corporate Debtor as detailed in paragraph 13 of the instant application;*

- d. Pass an order directing that if under any circumstances, such amount of Net Gain (detailed at paragraph 12 of this application) is received by Fab Metals Private Limited at any time, such amounts shall be paid by FMPL to the Applicant for appropriation as stated in paragraph 13 of this application;*
- e. Pass an order directing that any and all other benefits, profits and any other monetary gains accruing to the Corporate Debtor prior to the approval of the FMPL Resolution Plan by this Hon'ble Adjudicating Authority shall be for the benefit of the CoC of the Corporate Debtor and its stakeholders; and shall be paid out by FMPL (if received by FMPL) to the CoC of the Corporate Debtor upon receipt;*
- f. Hear and dispose off the instant application prior to proceeding with hearing and disposal of the Plan Approval Application i.e. IA. No. 395 of 2022; and*
- g. Pass any other! further orders that this Hon'ble Adjudicating Authority may deem fit, in the facts and circumstances of the present application and in the interest of justice.”*

2.7 Since the RP was called upon to submit a letter of consent on behalf of the Corporate Debtor to accept the compensation determined in accordance with Section 19B (2) of the Highways Act as a full and final amount, the RP circulated an email dated 30.07.2024 to the CoC

---

members with a draft resolution, requesting them to respond by 31.07.2024. In response to the same, EARC, approved the draft resolution *vide* email dated 31.07.2024 subject to two conditions, viz., (i) the amount received in the form of compensation shall be paid in the CIRP account maintained by the RP with respect to the Corporate Debtor; and (ii) the entire amount received and the incremental benefits accrued/realised from the acquisition process with respect to the properties exclusively charged to EARC shall be held by the RP for the benefit of EARC and shall not be utilised without their prior approval. Other members of the CoC did not respond to the RP's email. Since no response was received from the other members of CoC, the RP extended the timeline *vide* emails dated 31.07.2024 and 02.08.2024, extending the time up to 02.08.2024. Though no response was received from the other members of CoC, given that EARC held 91.92% of the voting share, the resolution was treated as passed.

2.8 In this backdrop, the RP has filed IA. No. 4485 of 2024 on 15.08.2024 against the Highways Authority, Maharashtra State Road Development Corporation Ltd (Respondent No. 1) and members of CoC (Respondent Nos. 2-14) seeking the following reliefs:

*a. This Hon'ble Tribunal be pleased to consider the resolution dated 31.07.2024 and pass necessary directions with respect to transfer of lands being subject matter of acquisition Notice bearing Reference No. 353/24 dated 24.05.2024 concerning the lands at Survey No's. 73, 227, and 228 (Area 24619 Sq. Mtrs.) in village Bhopar, Taluka-Kalyan, District-Thane (Annexure — "C"), and Notice bearing Reference No. 343/24 dated 24.05.2024 concerning lands at Survey No's. 99, 132, 120/5, 58/1, 58/2, 62, 61 and 59 (Area*

---

*12100 Sq. Mtrs.) in village Katai, Taluka Kalyan, District - Thane (Annexure — “D”);*

- b. In furtherance and subject to prayer clause (a), this Hon’ble Tribunal be pleased to issue necessary directions to the Respondent No. 1 to forthwith deposit the acquisition compensation to the CIRP Account of the Corporate Debtor;*
- c. This Hon’ble Tribunal be pleased to pass necessary directions under Section 60(5) of the Code with respect to utilization of funds received in terms of the acquisition of lands by the Respondent No. 1;*
- d. Interim and ad-interim reliefs in terms of prayer (a) to (c);*
- e. Any other reliefs as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”*

Subsequently, on an intervention petition filed by the SRA, this Tribunal vide order dated 17.07.2025 impleaded the SRA as a Respondent.

2.9 When the SRA came to know of the aforesaid developments, it filed another application, IA No. 4759/2024 (SRA Application), against the RP (Respondent No.1), EARC (Respondent No. 2), and Highways Authority, MSRDC, through SDO Kalyan (Respondent No. 3), whereby SRA has sought the following reliefs:

- a. allow the present Application;*
- b. quash the Impugned Resolution dated 30th August 2024 passed by Respondent No. 1 wherein the Respondent No.2 has consented for the Resolution Professional/ Respondent No. 1 to provide consent*

---

*to Respondent No.3 for proceeding with acquisition, accept the compensation of land acquisition from the authorities and appropriate such sums to the sole benefit of Respondent No.2, as being illegal, bad in law and void;*

- c. quash the letter dated 1 2th August 2024 sent by the Respondent No. 1 to the Respondent No.3, as being illegal, bad in law and void;*
- d. direct Respondent No. 3 to not proceed with the acquisition process in respect of a portion of the land belonging to the Corporate Debtor situated at Katai, or any other asset/s of the Corporate Debtor, until the cessation of the moratorium imposed under Section 14 of the Code;*
- e. direct Respondent No. 1 to furnish copies of all letter, documents and information as sought by the Applicant;*
- f. Any other further relief as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case and in the interest of justice.”*

2.10. Subsequently, another IA No. 3071/2025, was also filed by EARC (EARC Second Application), against the SRA (Respondent No. 1), RP (Respondent No. 2), and other members of CoC, seeking the following reliefs:

- a) Allow the present Application;*
- b) Pass an order remanding back the resolution plan dated December 01, 2021 along with Addendum and Clarifications to the Addendum submitted by Fab Metals Private Limited back to the CoC of the*

---

*Corporate Debtor for reconsideration;*

- c) *Direct the RP to accept the compensation being offered by the Highways Authority in terms of the Maharashtra Highways Act, 1955 into the account of the Corporate Debtor;*
- d) *Pass any other orders that this Hon'ble Adjudicating Authority may deem fit, in the facts and circumstances of the present case, and/ or in the interest of justice."*

2.11 All these four IAs (IA. No. 3983/2024; IA. No. 4485/2024; IA No. 4759/2024; and IA. No. 3071/2025) are considered together in this Common Order.

### **3. Submissions of RP**

3.1 It is submitted that, during the pendency of the Resolution Plan Application, the RP received Acquisition Notices for acquiring lands belonging to the Corporate Debtor spread over various survey numbers situate in villages Bhopar and Katai. If the compensation amount proposed in the Acquisition Notices is acceptable as the full and final settlement, a Consent Letter must be furnished to the Competent Authority within 21 days of receipt of the Acquisition Notices to process the payment. Otherwise, the proceedings will continue as per the rules.

3.2 It is submitted that there is no dispute with respect to the land situate in village Bhopar. However, there are disputes regarding the land situated in the village Katai, as one Macrotech Developer claims development rights over a part of the said land at Katai. These disputes are presently the subject matter of proceedings pending before the Civil Court, Kalyan, being RCS Suit No. 381/2023 [Premier Limited v. Macrotech Developers

---

& Anr]. Further, Macrotech has filed objections before the Competent Authority regarding the acquisition compensation.

- 3.3 Since the Resolution Plan has already been approved by the CoC and is pending approval of this AA, necessary directions with respect to the receipt of compensation for the acquisition and utilisation thereof are sought in the RP Application. The RP merely seeks directions for the disbursement of funds to the CIRP account of the Corporate Debtor to enable the RP to discharge her statutory duties, and no relief has been sought in favour of any particular stakeholder.
- 3.4 The RP submits that it is the duty of the resolution professional under Section 23(1) of the Code to manage the affairs of the corporate debtor till an order approving a resolution plan is passed under Section 31 of the Code or till a liquidator is appointed under Section 33 of the Code. The RP has neither accepted the compensation nor given any 'consent' under Section 19B (2) of the Highways Act. Therefore, no action has been taken contrary to the moratorium or in breach of the Resolution Plan.
- 3.5 It is contended that unless and until a resolution plan is formally approved by the AA, no legal right accrues in favour of the successful resolution applicant, and consequently, it cannot claim to be an aggrieved person merely on the basis of CoC approval to the resolution plan submitted by it. Further, the SRA has no locus to obstruct the statutory land acquisition process or to oppose directions sought by the RP in discharge of its mandatory duties.

#### **4. Submissions of EARC**

- 4.1 The RP has sought directions in relation to the land parcels admeasuring

---

9.07 acres belonging to the Corporate Debtor ('Acquisition Lands'), in relation to which the RP has received Acquisition Notices from the Competent Authority under Section 18 of the Highways Act, initiating land acquisition proceedings. It is submitted that EARC has exclusive charge over approximately 6.08 acres out of the Acquisition Lands, situated at Village Bhopar, Taluka Kalyan, district Thane.

- 4.2 It is submitted that the value of the Acquisition Lands has increased substantially, as compared to its value at the time when the Resolution Plan was approved by the CoC more than 2 years ago, which in effect would result in windfall gains to and unjust enrichment of SRA. Therefore, the incremental value of the Acquisition Lands should be paid out to the stakeholders of the Corporate Debtor, including EARC.
- 4.3 EARC further contends that the Resolution Plan submitted by the SRA does not consider, include or deal with the complete assets of the Corporate Debtor, as substantial land parcels of the Corporate Debtor were not known to the RP to be part of the assets of the Corporate Debtor at the time of valuation of the Corporate Debtor mandated under the Code or even when approval of the Resolution Plan by the CoC took place. Consequently, the details related to these land parcels were not part of the Information Memorandum, and admittedly, SRA was not aware of these land parcels at the time of Plan submission. Therefore, these land parcels of the Corporate Debtor, including the ones located at Village Katai, comprising 2.99 acres and Village Gharivali comprising 0.79 acres ('New Assets'), were never factored in for the purposes of the CIRP/valuation or the Resolution Plan at the time of its finalisation and approval by the CoC. Hence, the CoC had no opportunity to consider the complete assets of the Corporate Debtor at the time of negotiations and

---

finalisation of the Resolution Plan. The CoC and the other stakeholders of the Corporate Debtor cannot be made to suffer on account of the lack of information / poor record-keeping by the erstwhile management of the Corporate Debtor.

- 4.4 The Corporate Debtor's land in Village Bhopar was the only land parcel known at the time of approval of the Resolution Plan by CoC. The average liquidation value of the 6.08 Acres, which is exclusively charged to EARC, and forming the subject matter of the Acquisition Notices, was approximately only at the rate of Rs.1.69 Crore per acre as per the valuation reports of the registered valuers. Whereas, in light of the impending land acquisition and the compensation offered in terms of the Acquisition Notices, the value of the same, i.e., 6.08 acres of land in Village Bhopar, has shot up drastically. The compensation of approximately Rs. 120 Crore is receivable by the Corporate Debtor in respect of the said Bhopar land based on the compensation proposed by the Highways Authority in the Acquisition Notices, if consent in respect of the same is given to the Highways Authority by the Corporate Debtor/RP. The exponential rise in value (exceeding even the payouts under the Resolution Plan) is one of the paramount factors that warrant that the Resolution Plan in the present form must not be approved by this Tribunal.
- 4.5 Additionally, a substantial compensation is also proposed to be paid out to the Corporate Debtor towards the acquisition of the New Assets under the Highways Act.
- 4.6 The New Assets coming to the knowledge of the parties, coupled with the drastic increase in the value of the Corporate Debtor's land in Village

---

Bhopar, are crucial and material changes that entail a significant change in the asset pool of the Corporate Debtor and drastically impact the commercials and correctness of the Resolution Plan. Had the New Assets been known to the RP/CoC at the time of considering the Resolution Plan, the negotiations with SRA would have factored in the value of all such assets for the benefit of the stakeholders.

- 4.7 The creditors of the Corporate Debtor are proposed to be paid meager amounts under the Resolution Plan, thereby warranting a haircut of almost 80% of the debt. Any amount received by EARC, as an asset reconstruction company, shall ultimately benefit EARC's security receipt holders, who are public sector banks and hold 85% of the benefits. If this Tribunal does not send the Resolution Plan back for reconsideration of the CoC, it would result in grave prejudice to the stakeholders of the Corporate Debtor and defeat the very objective of the Code. The Code neither is nor was ever intended to be a mechanism for unjust enrichment of resolution applicants; rather, it is aimed at insolvency resolution of the Corporate Debtor and value maximisation for the Corporate Debtor's creditors. Further, it is submitted that the CoC can reconsider/recall a resolution plan on the grounds of value maximisation of the corporate debtor, and this Tribunal has the jurisdiction to pass appropriate directions in this regard.
- 4.8 EARC also contends that it is shocking to even contemplate that while on one hand, the CoC would be taking massive haircuts i.e., in the range of 80% from the monies owed to it by the Corporate Debtor and on the other hand, SRA would end up recovering at least 1.3 times of the amount it is bringing in for making payouts to the creditors of the Corporate Debtor as part of the Resolution Plan. This by no means is the intent of the Code.

- 
- 4.9 The CoC had approved the Resolution Plan submitted by SRA more than 3 years ago, i.e., when the possibility of such drastic value enhancement on account of land acquisition, as well as certain land assets of the Corporate Debtor, were never known to the CoC to be part of the assets of the Corporate Debtor. At the time of Plan approval, the CoC relied on the valuation of the Corporate Debtor prepared by the two independent registered valuers, in accordance with the provisions of the Code, but only for the land parcels known to be part of the Corporate Debtor's assets at that time. The plan value and commercial negotiations in respect of the Resolution Plan had taken place relying upon such valuation done by the said independent registered valuers, without the knowledge of such massive value enhancement on account of the proposed land acquisition. The New Assets were neither considered for negotiations with SRA due to no knowledge about the same, nor was any value factored in for the same in the Resolution Plan.
- 4.10 The Resolution Plan in the present form does not clear the key commercial test of 'maximisation of value' of the Corporate Debtor and its stakeholders, and the Corporate Debtor cannot be handed over to the SRA at the same price as was agreed more than 3 years ago, when the factual circumstances were very different.
- 4.11 It is submitted that the SRA has no right whatsoever to intervene in the matter of land acquisition of the Corporate Debtor or have a say in whether the compensation receivable from the Competent Authority under the Highways Act should be received or not received by the Corporate Debtor.
- 4.12 The acquisition notices issued by the Highways Authority in respect of the

---

Corporate Debtor's land refer to a Government of Maharashtra, Public Works Department Notification dated 10.08.2023, issued under Section 18(1) of the Highways Act. Therefore, clearly, the declaration and vesting in respect of the Corporate Debtor took place in 2023, i.e., almost 2 years after negotiations, consideration, and approval of FMPL's resolution plan by the CoC. Given such drastic changes to the circumstances, the Resolution Plan must necessarily be reconsidered by the CoC in the interest of insolvency resolution of the Corporate Debtor, fair treatment to the stakeholders of the Corporate Debtor, as well as in the interest of justice.

- 4.13 The commercial intent of the CoC regarding cash surplus and benefits, if any, arising till resolution plan approval by the AA, should accrue to the creditors of the Corporate Debtor, as is evident from a perusal of certain provisions of the Request for Resolution Plans (RFRP) issued by the RP. Thus, the commercial intent of the CoC at the time of the approval of the Resolution Plans was that any balance/surplus moneys in the Corporate Debtor until the approval of a resolution plan by the AA are for the benefit of the creditors/CoC of the Corporate Debtor and not for the Resolution Applicant. Accordingly, any upside/differential amount in valuation resulting from the compensation received for acquisition should be for the benefit of the Corporate Debtor and its creditors.
- 4.14 It is further submitted that Section 18 (2) of the Highways Act, under which the present acquisition is taking place, states that '*On the publication of such declaration under subsection (1), the land shall vest absolutely in the State Government free from all encumbrances.*'. Hence, the vesting of the Acquisition Lands has already taken place, and the acquisition proceedings are at the stage of offering compensation to the landowners

---

pursuant to Section 19 of the Highways Act, i.e., much after the vesting of the land. That being the case, the Resolution Plan in its present form cannot be acceptable or be considered by this AA, and would necessarily have to be sent back to the CoC of the Corporate Debtor for reconsideration.

## 5. **Submissions of SRA**

- 5.1 It is trite law that a Resolution Plan, once approved, is binding on all the stakeholders as well as the Resolution Applicant. It is not within the rights of the RP and the CoC to take any decision with respect to the sale or transfer of assets of the Corporate Debtor for which a Resolution Plan has been approved. The sale of assets of the Corporate Debtor can never take place after accepting a Resolution Plan on the basis of the very same assets. Thus, in order to circumvent the bar in law, the CoC is now seeking modification and disapproval of the Resolution Plan approved by them. This is nothing but an attempt to arm-twist the SRA into paying more than what is provided under the approved Resolution Plan and contrary to the terms envisaged under the Plan.
- 5.2 The Resolution Plan is submitted on the basis of the assets which are set out in the Asset Memorandum provided by the RP/Information Memorandum, in which it is placed for the consideration of any Resolution Applicant, detailing what the available assets are. Accordingly, on the basis of this information and data that was provided, the SRA formulated a plan and placed it for the consideration of RP and CoC. The RP and CoC evaluated the Resolution Plan based on the valuation report and approved the same on 22.01.2022.
- 5.3 The RFRP, which is formulated for the Corporate Debtor, provides that

---

any money lying to the credit of the Corporate Debtor will be the entitlement of the CoC. At the same time, in the Information Memorandum, it is provided that the assets which are set out in the Information Memorandum are the assets which are available and which will be to the benefit of the resolution applicants as and when the Corporate Debtor is acquired. It is submitted that the money which is contemplated under the clauses of RFRP is the cash that is lying with the company at the time when the transfer takes place. This cannot be stretched to the extent that the RP and CoC will sell the assets and strip the Corporate Debtor, and any money that is then realised will be deposited in the current account and will be contemplated as the money lying to the credit of the company, which will be to the benefit of the CoC.

- 5.4 On the basis of available information and data, it was also contemplated at that stage, and all the parties were mindful that there was a tentative acquisition of the subject property which would take place. Therefore, in light of that acquisition, the Resolution Plan of SRA brought more clarity by introducing clause 4.2.10 in the Resolution Plan, which contemplated any acquisition that would be made, and the money realised would be to the credit of the Resolution Applicant.
- 5.5 There was no authority vested with the CoC or the RP to propose and pass any resolution relinquishing the right over the assets of the Corporate Debtor. Instead of challenging this issue before this Tribunal or the appropriate forum, on account of the moratorium declared under Section 14 of the Code, the RP and CoC colluded to ensure that the acquisition proceedings are concluded and compensation is received before the approval of the Resolution Plan.

- 
- 5.6 The SRA further states that the moratorium imposed pursuant to commencement of CIRP specifically prohibits the Corporate Debtor, RP, and the CoC and any other third party from dealing with the properties of the Corporate Debtor, except by the process which has been laid down under the Code and the CIRP Regulations, from the sale of the assets of the company. It is contended that this sale of assets of the Corporate Debtor can also never take place after accepting a Resolution Plan on the basis of the very same assets.
- 5.7 It is therefore stated that there is no authority whatsoever with the RP or the CoC to deal with the assets in the aforesaid manner, especially after approval of the Resolution Plan and in contravention of the Plan, without even withdrawing or rejecting the Resolution Plan or taking any other steps or taking prior approval from this AA. The SRA contends that the Application, though seeking to claim the monies so received as a result of land acquisition proceedings, is such that if allowed, it would effectively lead to modification of the Plan inasmuch as the amounts payable under the approved Resolution Plan to the Applicant and other Secured Financial Creditors would stand increased and modified.
- 5.8 The SRA submits that EARC, as well as other Respondents, including RP and members of CoC, were well aware of the fact that there would be a likelihood of acquisition proceedings with respect to the land parcels belonging to the Corporate Debtor. Thus, EARC has now, as an afterthought, only upon issuance of the Acquisition Notices, and without having explained its delay, attempt to mislead this AA in making a bogus claim to a future income which may accrue to the benefit of the Corporate Debtor, once the subject land is acquired by the Authority. The CoC is trying to create a situation whereby EARC can renege from, modify, alter

---

and/or reject the same Resolution Plan, which it voted in favour of, and which is binding on EARC itself.

5.9 The SRA further submits that it has invested a substantial sum of money (including a sum of Rs. 13.25 Crore towards personal bank guarantee) into the revival of the Corporate Debtor and thereafter to run the Corporate Debtor. However, after a span of three years, it is owing to the dilatory tactics of the EARC and the RP that the Plan approval has remained pending, and the SRA is being cornered to suffer losses to such an extent that it is compelled to withdraw from the CIRP. The present circumstances warrant judicial intervention to safeguard the integrity of the process and protect the legitimate interests of parties.

## **6. Analysis**

6.1 As requested by the Counsel appearing for the parties, we heard all these IAs together and perused all the documents available on record.

6.2 At the outset, it is to be noted that the CoC approved the Resolution Plan submitted by the SRA at its meeting held on 22.01.2022 with a majority of 92.47%, and the RP filed the Resolution Plan Application on 11.02.2022. After more than two years, and during the pendency of the Tribunal's approval of the Resolution Plan Application, the RP received Acquisition Notices from the Competent Authority under the Highways Act for the acquisition of certain portions of the land belonging to the Corporate Debtor. In this background, EARC filed IA.No.3983/2024 on 26.07.2024 (EARC First Application) seeking intervention in the Resolution Plan Application for claiming the net gain arising out of the aforesaid acquisition. Further, RP filed IA. No.4485/2024 on 15.08.2024 (RP Application) seeking directions of the Tribunal for giving consent to

---

the land acquisition process and to deposit the compensation in the CIRP account of the Corporate Debtor on the basis of the consent granted by EARC on 31.07.2024. Almost immediately thereafter, the SRA filed IA.No.4759/2024 on 04.10.2024 (SRA Application) challenging the consent given by EARC for proceeding with the land acquisition and accepting the compensation of land acquisition from the authorities and appropriating the sums for the benefit of EARC. In the circumstances, EARC filed IA. No. 3071/2025 on 07.07.2025 (EARC Second Application) seeking a remand of the Resolution Plan to the CoC for fresh consideration.

- 6.3 Having heard the Ld. Counsel appearing for the parties and having gone through the materials on record, the following issues arise for our consideration in these IAs:
- (i) Whether the RP or the CoC has the right to take decisions for the sale, transfer, or surrender of rights, with respect to the assets of the Corporate Debtor for which a Resolution Plan has already been approved by the CoC but is pending approval from the Adjudicating Authority?
  - (ii) Whether the SRA has the locus to oppose the Applications related to the acquisition of land parcels of the Corporate Debtor before the Resolution Plan receives approval from the Adjudicating Authority?
  - (iii) Whether the Secured Creditor or other stakeholders can claim benefit arising under the acquisition of land owned by the Corporate Debtor post-approval of the Resolution Plan by the CoC?
  - (iv) Whether the Resolution Plan that is awaiting approval from the

---

Adjudicating Authority can be remanded back to the CoC for maximisation of value of assets of the Corporate Debtor?

**Issue No.(i)**

6.4 There is no dispute with respect to the receipt of the Acquisition Notices by RP on 20.06.2024 and 15.07.2024, seeking acceptance of the compensation determined by the Competent Authority of the Highways during the pendency of the Resolution Plan Application. However, the dispute among the parties revolves around the actions taken in response to the Acquisition Notices. Hence, it is imperative to examine both the actions taken and those proposed regarding the Acquisition Notices.

6.5 The RP states that the following actions were taken by her in response to the Acquisition Notices:

6.5.1 Issued an email dated 30.07.2024 to the CoC members as follows:

*“Dear CoC members,*

*As suggested, the undersigned has taken legal opinion from Senior Counsel Mx. ...*

*To our understanding of the opinion, with regards provisioning of consent by the Resolution Professional to handover the land for acquisition to the said authorities pending the CIRP:*

*He has opined that pending CIRP the rights of the Corporate Debtor may be transferred only with the approval of the Committee of Creditors, under section 28 of the Code, to be in a position to accept the compensation and provide consent to the acquisition process. He has suggested in the present scenario to call for a*

---

*meeting of the Committee of Creditors wherein an agenda be placed before the members, in relation to granting the consent in respect of the said Notice. In accordance with the decision of the Committee of Creditors the Resolution Professional shall place before the Hon'ble NCLT an application for appropriate direction and to proceed further in the matter, wherein the Competent Authority (PWC, in the present case) shall also be made a party.*

*As per the recommendation of the Senior Counsel, we are hereby requesting all the CoC members to advise on the current issue, which shall be placed before Hon'ble NCLT for the due directions. A copy of the proposed resolution is annexed herewith, which may please be passed vide email or a Committee of Creditors meeting be advised, as the case may be suitable to the members, for further action in this regard. The CoC members are hereby requested to kindly approve/not approve the attached Resolution giving consent to the Land acquisition and for acceptance of compensation on behalf of Corporate Debtor by 4:00 P.M. tomorrow i.e. 31-07-2024.*

*Attached are the copies of the Opinion of Senior Counsel ..., Advocate ... along with proposed resolution for approval, for your kind perusal.*

*Regards,*

*Team of RP*

6.5.2 As per the aforesaid mail, the RP proposed the following Resolutions:

**“ITEM NO. - 1 MATTER ON WHICH VOTING TO BE DONE TO APPROVE THE ACCEPTANCE OF COMPENSATION FOR LAND**

---

**ACQUISITION AND TO PERMIT THE RESOLUTION  
PROFESSIONAL TO GIVE CONSENT FOR ACQUISITION  
PROCESS TO THE HIGHWAY AUTHORITIES.**

*Notes to Resolution -1 As per the communications of SDO, the RP is required to submit a letter of consent on behalf of the Corporate Debtor as per the 'District Level Committee for Determination of Remuneration' established under the chairmanship of the collector, to accept the compensation of land acquisition determined in accordance with Section 19B (2) of the Highway Act in full and final compensation. Thereafter, upon recommendation of COC members, legal opinion was sought from Senior Counsel Mx. ... and Adv. ... which has been annexed as Annexure -1 and Annexure -2, respectively for perusal of CoC members. As per the recommendation of the Counsel, the following Resolution has been placed for consideration of the CoC members, which shall then be placed before Hon'ble Tribunal for appropriate directions to proceed on the matter.*

*Advise of Edelweiss Asset Reconstruction Company Ltd (EARC) vide email dated 31.07.2024:*

*“EARC (the sole Secured Financial Creditor in the Corporate Insolvency Resolution Process of the Corporate Debtor), is ok with the proposal of the RP subject to the following conditions:*

- 1) The amount received in the form of compensation shall be paid in the CIRP account maintained by the RP with respect to the CD.*
- 2) The entire amount received and the incremental benefits accrued/realized from the acquisition process with respect to the properties exclusively charged to EARC shall be held by the RP for the benefit of EARC and shall not be utilised without prior approval of EARC.”*

*Resolution: To consider and if found fit, to pass with or without modification the following Resolution:*

---

*“RESOLVED THAT the consent of the members of the CoC be and is hereby accorded to ratify the acts of the Resolution Professional to give consent to the land acquisition process as required under the provisions of law and to accept the compensation of land acquisition as determined under S.19B (2) of Maharashtra Highway Act, 1955.”*

6.5.3 EARC, having a voting share of 91.92% voted in favour but other CoC members abstained from voting. The RP, therefore, *vide* email dated 31.07.2024, extended the time to 12:00 P.M. on 01.08.2024 and requested the other CoC members to give their observation by or before then. Again, *vide* mail dated 02.08.2024, the RP informed CoC as under:

*“We expect to receive from other CoC members as to their consent or dissent or any views from them by or before end of day today 02.08.2024. In case we do not hear from them, we shall proceed with a majority percent of assent in the matter.*

*We shall accordingly file an application before the Honorable Tribunal as opined by the Counsel. Application charges and per appearance fees for counsel and AoR for NCLT matters shall be as per the existing rates so approved for NCLT matters.”*

6.5.4 Thereafter, RP proceeded with the filing of the RP Application on 15.08.2024.

6.5.5 The RP also responded to the Acquisition Notices dated 24.05.2024 *vide* letters dated 05.08.2024, stating as under:

*“7. As per Section 28 (1)(k) of the Code, an approval of the CoC is required for transfer of any rights of the CD, which is required to*

---

*be conducted other than in the ordinary course of business. Therefore, the RP would be required to place the issue for consideration before the CoC and, in accordance with the decision taken by the CoC undertake further steps. In the event of the approval of the CoC, necessary steps including directions of the Hon'ble NCLT will be sought to submit the request to surrender the parcels of lands as surveyed. CoC has passed a resolution, which the RP is in the process of placing before the Ld. NCLT seeking necessary directions.*

.....

9. *In view of the above facts, I have taken necessary steps for consideration by the CoC / its approval and I am in the process of filing necessary application for seeking necessary directions from the Ld. NCLT with respect to taking necessary steps for the acquisition of said land."*

- 6.6 The RP contends that, based on the resolutions passed by EARC holding 91.92% of the voting share, the RP Application has been filed seeking directions of this Tribunal so that the acquisition can be completed, compensation can be received, and the amount can be utilised as per the directions and satisfaction of this Hon'ble Tribunal.
- 6.7 The RP further contends that the process of land acquisition for highway purposes is governed by Sections 15 to 19D of the Highways Act. The Highways Act provides a self-contained mechanism for compulsory acquisition, leaving no discretion for either the Corporate Debtor or the RP to refuse or opt out. Once a notification under Sections 15 and 18 of the Highways Act is issued, the land vests in the State Government, and

---

the land owner has no choice in the matter; the process is entirely governed by the provisions of the Highways Act. The only variable thereafter is the quantum of compensation, which is determined either by agreement under Section 19B (2) of the Highways Act, or, failing that, by the Competent Authority through arbitration under Section 19B (8) of the Highways Act.

- 6.8 The Ld. Sr. Counsel for the EARC supports the RP and submits that in terms of Section 18(1) of the Highways Act, the land acquisition officer, after hearing of objections from the persons interested in the land is required to submit a report to the State Government and on receipt of such report, the State Government declares, by notification in the Official Gazette, that the land should be acquired. Section 18(2) of the Highways Act states that *“On the publication of such declaration under Sub Section (1), the land shall vest absolutely in the State Government free from all encumbrances.”* The Acquisition Notices were issued by the Competent Authority under Section 18(2) of the Highways Act. Therefore, clearly, the declaration and vesting in respect of the Corporate Debtor took place in 2023, i.e., almost two years after negotiations, consideration, and approval of the Resolution Plan by the CoC.
- 6.9 On the contrary, the SRA contends that no resolution was validly passed by the CoC to seek directions of the Tribunal. Further, there was no authority vested with the CoC or the RP to propose and pass any resolution relinquishing their right over the assets of the Corporate Debtor. Additionally, it is contended that the assets set out in the Information Memorandum are available and will benefit the resolution applicants as and when the Corporate Debtor is acquired.

---

6.10 Before adverting to the rival contentions canvassed on either side, it is useful to notice the relevant provisions in the Code and the CIRP Regulations:

*Section 24 of the Code reads:*

*“24. Meeting of committee of creditors. – (1) The members of the committee of creditors may meet in person or by such electronic means as may be specified.*

*(2) All meetings of the committee of creditors shall be conducted by the resolution professional.*

*(3) The resolution professional shall give notice of each meeting of the committee of creditors to-*

*(a) members of committee of creditors, including the authorised representatives referred to in sub-sections (6) and (6A) of section 21 and sub-section (5);*

*(b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;*

*(c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent. of the debt.*

*(4) The directors, partners and one representative of operational creditors, as referred to in sub-section (3), may attend the meetings of committee of creditors, but shall not have any right to vote in such meetings:*

---

*Provided that the absence of any such director, partner or representative of operational creditors, as the case may be, shall not invalidate proceedings of such meeting.*

.....

.....

*(8) The meetings of the committee of creditors shall be conducted in such manner as may be specified.”*

Regulation 18 of the CIRP Regulations provides as under:

*“18. Meetings of the committee. - (1) A resolution professional shall convene a meeting of the committee before lapse of thirty days from the last meeting:*

*Provided that the committee may decide to extend the interval between such meetings subject to the condition that there shall be at least one meeting in each quarter.*

*(2) A resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty-three per cent of the voting rights.*

*Explanation. - For the purposes of sub- regulation (2) it is clarified that meeting(s) may be convened under this sub-regulation till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 and decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority.*

---

*(3) A resolution professional may place a proposal received from members of the committee in a meeting, if he considers it necessary and shall place the proposal if the same is made by members of the committee representing at least thirty-three per cent of the voting rights.*

*(4) Where the corporate debtor has any real estate project, the committee may direct the resolution professional to invite the competent authority as defined in clause (p) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) related to such project to attend such meetings of the committee, as the committee may decide, without voting rights, for providing inputs on matters associated with the development of such project.*

*(5) The committee may direct the resolution professional to invite the providers of interim finance to attend as observers without voting rights, such meetings of the committee, as the committee may decide.”*

6.11 Section 24 of the Code and Chapters VI and VII of the CIRP Regulations prescribe in detail how the meetings of the committee of creditors are to be convened, conducted, and voted upon the resolutions placed for consideration of the committee of creditors. In the present case, it is observed that no notice of the meeting was issued to the members of the CoC and the suspended Board of Directors, as prescribed, and no meeting was held. However, it is submitted that the proposed resolutions were circulated to the members, and time was repeatedly extended to express their views or to vote upon. Further, the secured financial creditor holding 91.92% of the voting share has endorsed the resolution. Therefore, it is submitted that there has been sufficient compliance with

---

the provisions prescribed, warranting that the resolution be deemed approved.

6.12 It is pertinent to observe that the Code and the CIRP Regulations prescribe proper notice to all members and participants, convening of the meeting on a date and time, enabling participation in person or through video conferencing, and voting on the resolutions proposed. Such a detailed procedure is prescribed to ensure that the committee of creditors, the crucial decision-making body, deliberates on the agenda items and takes considered decisions. Regulation 25(3) of the CIRP Regulations explicitly states that the Resolution Professional must take a vote on any item **only after discussion** on that item during a meeting. Meetings ensure that all participants, including non-voting members such as suspended directors or operational creditors, can participate in the decision-making process and express their views. The commercial wisdom is expected to emerge from the collective consideration of the proposal. Consequently, merely voting on the resolution, without discussion in the meeting of members and participants, would violate procedural requirements prescribed by law and undermine the intended purpose of collective decision-making.

6.13 It is also relevant to notice that an Explanation was inserted w.e.f 16.09.2022 in Regulation 18 of the CIRP Regulations to provide that the meeting of CoC may be convened till the resolution plan is approved under Section 31(1) or order of liquidation is passed under Section 33 to decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority. To support the above argument, the Ld. Counsel relies on the judgement passed by the Hon'ble NCLAT in *State*

---

*Bank of India v. Santoshi Hyvolt Electricals Pvt Ltd and Ors [(2025) ibclaw.in 187 NCLAT].*

- 6.14 The RP asserts that there were no alternative options available. It is argued that the Highways Act provides a self-contained mechanism for compulsory acquisition, leaving no discretion for either the Corporate Debtor or the Resolution Professional to refuse or opt out. Once a notification under Sections 15 and 18 of the Highways Act is issued, the land vests in the State Government, and the land owner has no choice in the matter; the process is entirely governed by the provisions of the Highways Act.
- 6.15 In contrast, the SRA contends that RP could have contested this issue before this Tribunal or the appropriate forum, on account of the moratorium imposed pursuant to the commencement of CIRP. The moratorium specifically prohibits the Corporate Debtor, RP, and the CoC and any other third party from dealing with the properties of the Corporate Debtor, except by the process which has been laid down under the Code and the CIRP Regulations. Furthermore, it is contended that the subject matter of Acquisition Notices constitutes assets that are included in the Information Memorandum, which the RP and CoC cannot surrender/transfer after having accepted a Resolution Plan. Consequently, no resolution could be validly passed by the CoC that would impact the Resolution Plan submitted to the Adjudicating Authority.
- 6.16 We have weighed the rival contentions of the parties. There is a consensus among parties regarding the applicability of the provisions of the Highways Act in relation to the development of highways. As per the provisions contained therein, the acquisition of land for the maintenance,

---

management, or operation of a highway begins with a notification in the Official Gazette declaring the State Government's intention to acquire such land. However, none of the parties could place on record the notification issued by the State Government under Section 15(2). Thus, it remains ambiguous when the acquisition process was initiated. It is also unclear whether the Corporate Debtor had raised any objection to such notification. The parties have also not brought on record any copy of the notification issued by the State Government in the Official Gazette under Section 18, stating that the land shall vest absolutely in the State Government, free from all encumbrances. It is important to note that suspended directors could have shed some light on these aspects had there been a proper meeting to consider the Acquisition Notices. Nonetheless, EARC asserts that the declaration and vesting of lands under acquisition occurred in the year 2023. Consequently, it is no one's case that the land under acquisition had taken place before the initiation of CIRP in respect of the Corporate Debtor. Furthermore, the Ld. Counsel for the RP acknowledges that the assets subject to the Acquisition Notices remain in the physical possession of the Corporate Debtor.

6.17 The moratorium under Section 14 of the Code comes into effect upon initiation of CIRP, which in the present case is on 29.01.2021. Section 14 of the Code reads as follows:

*“14. Moratorium. – (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -*

*(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of*

---

*any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

*(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*

*(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

.....

.....

*(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”*

---

6.18 The moratorium declared under Section 14 of the Code prohibits the initiation or continuation of legal proceedings against the corporate debtor, the transfer of assets, the enforcement of security interests, and similar actions. The statutory prohibition is designed to protect the assets from being transferred, encumbered, alienated, or otherwise disposed of by the corporate debtor, any of its assets or any legal right or beneficial interest therein. During this temporary prohibition, no adverse action may be taken against the assets of the Corporate Debtor, even under the Highways Act, on account of the overriding effect of the provisions of the Code contained in Section 238 of the Code. In the present circumstances, the parties are not contesting the compulsory acquisition process; rather, the question at hand pertains to the adequacy of the compensation determined by the Competent Authority and whether it should be accepted by the RP at this juncture.

6.19 Section 19B of the Highways Act stipulates that the amount of compensation shall be determined in accordance with the provisions of this Section. Where the amount of compensation has been determined by Agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement. Where no such agreement can be reached, the State Government is required to refer the case to the Land Acquisition Officer for the determination of the amount of compensation to be awarded for such acquisition, as well as to identify the person or persons to whom such compensation shall be paid. If the amount determined by the Land Acquisition Officer is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator appointed by the State Government.

- 
- 6.20 A perusal of the provisions of the Highways Act with respect to the determination of the amount of compensation, it is clear that the Corporate Debtor is not obligated to accept the compensation proposed in the Acquisition Notices. Furthermore, the purported resolution appears to have been made after the 21-day period specified in the Acquisition Notices for conveying acceptance of the option. Hence, the RP has not succeeded in demonstrating any compelling reason for accepting the offer made under the Acquisition Notices.
- 6.21 It is the position of the RP that Section 14(1) (b) of the Code restrains the Corporate Debtor, but does not bar the RP or the CoC from dealing with assets, as Section 23 of the Code empowers the RP to protect and preserve the assets of the Corporate Debtor, and Section 28 empowers the RP, with CoC approval, to undertake actions (including creating security or transferring assets) that would otherwise be restricted. It is also asserted that CoC has passed a resolution with 91.92% voting share in favour of the land acquisition, albeit subject to certain conditions.
- 6.22 So far as the powers of the RP are concerned, Section 23 explicitly states that the resolution professional shall continue to manage the operations of the corporate debtor after expiry of the corporate resolution process period, until an order approving the resolution plan under sub-section (1) of Section 31 or appointing a liquidator under Section 34 is passed by the Adjudicating authority. Admittedly, the corporate resolution process period, as defined under the Code, has already expired. Consequently, the obligation placed on the resolution professional is solely to manage the corporate debtor's operations. Management of operations of the corporate debtor post expiration of the corporate resolution process period, in our considered view, allows the RP to undertake actions that

---

are necessary for maintaining the corporate debtor as a going concern and not beyond that. The powers granted to the resolution professional to take any of the actions specified under Section 28 of the Code, with the approval of the committee of creditors, are applicable only within the timeframe of the corporate resolution process period. Since the corporate resolution process period (including extensions and exclusions, if any granted by the Tribunal) has already expired, reliance on the provisions of Section 28 of the Code is unfounded.

6.23 With respect to the validity of the resolutions passed by the CoC, the explanation to Regulation 18 of the CIRP Regulations makes it clear that the CoC cannot decide on matters that affect the resolution plan submitted before the Adjudicating Authority. The Hon'ble NCLAT in the case of State Bank of India (supra) considered this issue and held:

*“13. The explanation was added and it is clarified that the meeting of the CoC convened till the resolution plan is approved under Section 31(1) or order of liquidation is passed under Section 33 and decided on matters which do not affect the resolution plan submitted before the Adjudicating Authority. Counsel for the Appellant had submitted that the Regulation was introduced on 16.09.2022 whereas the plan was approved by the CoC I the meeting held on 11.08.2022, hence, the amended Regulation is not applicable. Amended Regulation came w.e.f. 16.09.2022, hence, accepting the regulation to be prospective only any CoC meeting which is convened after 16.09.2022 has to in accordance with explanation added in the Regulation. Thus, no decision could have been taken by the CoC in any CoC meeting held subsequent to submission of the application for approval before the Adjudicating Authority which may affect the resolution plan submitted. We, thus, are of the clear view that*

---

*in any meeting held by the CoC after submission of the application before the Adjudicating Authority there can be no decision which may affect the resolution plan.”*

6.24 In *Kalyani Transco v. M/s. Bhushan Power and Steel Limited and others* [(2025) ibclaw.in 388 SC], the Hon’ble Supreme Court observed thus:

*“73. It is to be noted that Explanation to clause (2) of Regulation 18 of the IBBI (CIRP) Regulations came to be added by Notification No. IBBI/2022-23/GN/REG093 dated 16th September 2022. The said Explanation would reveal that it clarified that for the purposes of clause (2) thereof the meeting(s) may be convened under the said clause till the Resolution Plan is approved under sub-section (1) of Section 31 of the IBC or an order for liquidation is passed under Section 33 of the IBC. However, the only rider is that it shall not decide on matters which do not affect the Resolution Plan submitted before the Adjudicating Authority.”*

6.25 The explanation delineates that the meeting of the committee of creditors and the resolutions cannot affect the resolution plan pending approval before the Adjudicating Authority. The inherent powers of the Adjudicating Authority envisaged under Rule 11 of the National Company Law Tribunal Rules, 2016, cannot be invoked when an explicit explanation disallows the passing of a resolution affecting the resolution plan pending before it. Even if one were to assume otherwise, such powers may only be exercised to meet the ends of justice for all stakeholders involved, including the resolution applicant whose resolution plan has been approved by the committee of creditors.

6.26 On the basis of the discussions above, the resolution stated to be passed by the CoC is marred by not meeting the procedural requirements, and

---

no resolution could be passed by the CoC, affecting the Resolution Plan that is pending consideration of the Tribunal on account of the explanation to clause (2) of Regulation 18 of the CIRP Regulations. Hence, the resolution affecting the Resolution Plan cannot be ratified by an order of the Tribunal. The RP has no authority to make decisions regarding the assets covered under the Resolution plan, except to manage them after the expiry of the CIRP period. Even otherwise, there is no material on record to demonstrate that RP and CoC have applied their minds to satisfy the Tribunal that such an acquisition at a price offered by the authorities is fair, just, and proper.

**Issue No.(ii)**

- 6.27 We now proceed to examine the issue regarding the locus of SRA to oppose applications related to the acquisition of land parcels.
- 6.28 The Ld. Counsel for the RP contends that the resolution plan submitted by SRA is yet to be approved by the Adjudicating Authority and hence not a stakeholder in the CIRP until approval of the Resolution Plan by the Adjudicating Authority. The impleadment of SRA in RP Application does not confer locus to obstruct the statutory land acquisition process or oppose directions sought by the RP in discharge of mandatory duties. In support of the above argument, the RP has relied on the decision of the Hon'ble Supreme Court in *Arcelormittal India Pvt. Ltd v. Satish Kumar Gupta* [(2019) 2 SCC1].
- 6.29 Ld. Sr. Counsel for EARC also supported the above contention, arguing that no vested right arises for a resolution applicant whose plan has been approved by the committee of creditors. The Ld. Sr. Counsel placed

---

reliance on the decision of the Hon'ble Supreme Court in *DBS Bank Limited v. Ruchi Soya Industries Ltd and Anr* [(2024) ibclaw.in 01 SC]

6.30 In the application concerning the RP Application, it has been observed that SRA was not initially arrayed as a party Respondent. Subsequently, SRA filed Intervention Petition No. 75 of 2024 seeking to be impleaded in the RP Application, which was allowed by a detailed order dated 17.07.2025. It appears that no appeal was preferred against the said order, and as a result, SRA has been impleaded as Respondent No.15 in RP Application. Nevertheless, the RP asserts that SRA has no right to obstruct the land acquisition process or oppose the directions sought by the RP with respect to the Acquisition Notices. Although a similar stance is echoed by EARC, it is noteworthy that SRA has been made a party to the application filed by it.

6.31 In the case of *Arcelormittal* (supra), the facts of the case revolve around the ineligibility of the resolution applicants to submit resolution plans after the introduction of Section 29A into the Code, with effect from 23.11.2017. While determining the issue whether any challenge can be made at various stages of the corporate insolvency resolution process, the Hon'ble Supreme Court observed as under:

*“79. Given the timeline referred to above, and given the fact that a resolution applicant has no vested right that his resolution plan be considered, it is clear that no challenge can be preferred to the Adjudicating Authority at this stage. A writ petition under Article 226 filed before a High Court would also be turned down on the ground that no right, much less a fundamental right, is affected at this stage. This is also made clear by the first proviso to Section 30(4), whereby a Resolution*

---

*Professional may only invite fresh resolution plans if no other resolution plan has passed muster.”*

6.32 In *DBS Bank* (supra), the Hon’ble Supreme Court, while considering the entitlement of a dissenting financial creditor, observed that no vested right inheres in any resolution applicant to have its plan approved under the Code.

6.33 We observe that the facts of the present case differ significantly from those in the cases of *Arcelormittal* (supra) and *DBS Bank* (supra). Notably, the resolution plan submitted by SRA has already received approval from the CoC and has been submitted to the Adjudicating Authority for final approval. As per the RFRP, the SRA has furnished a cash deposit of Rs. 13.4 crore as performance security in the year 2022 and is obliged to bring the resolution amount of Rs. 93 crores within 90 days following the Adjudicating Authority's approval of the Resolution Plan. Under these circumstances, it is essential to recognize that SRA is not merely a resolution applicant; rather, it is also bound by the stipulations set out in the RFRP and the Resolution Plan, with specific consequences arising from any failure to adhere to these obligations. Furthermore, the applications filed by RP and EARC stem from resolutions which has already been held to be invalid. In the scenario, holding that the SRA is precluded from intervening in irreversible actions would leave it without a remedy and contravene principles of natural justice. Therefore, it is our considered view that the SRA has the necessary locus for filing an application against the Corporate Debtor and has the right to be heard on any actions that directly impact the Resolution Plan submitted by it, so long as the Plan remains binding.

---

**Issue No.(iii)**

- 6.34 The next issue arising for consideration is with respect to the entitlement to the acquisition compensation.
- 6.35 The facts of the case indicate that immediately after receipt of the Acquisition Notices, EARC, the sole secured financial creditor with 91.92% voting share, filed EARC First Application seeking a direction that the net gain arising out of the acquisition shall be passed over to EARC and other stakeholders.
- 6.36 The Ld. Sr. Counsel for EARC states that there is no specific provision in the Resolution Plan regarding the acquisition compensation related to the Virar Alibaug Multi-Model Corridor Project. It is argued that the reliance on Clause 4.2.10 of the Resolution Plan by SRA is unfounded as its ambit does not cover the acquisition proceedings being undertaken by the Highways Authority, and compulsory acquisition is referred to conjunctively in the context of the Dedicated Freight Corridor. The proposed acquisition is, however, in no form or manner related to the acquisition by the Dedicated Freight Corridor Corporation of India Limited and pertains to the acquisition by the Highways Authority for the Virar Alibaug Multi-Model Corridor. Further, a closer reading of the clause reveals that it is, in fact, talking about 'additional compensation' if any receivable from Dedicated Freight Corridor Corporation of India Limited, which is clearly in context of the acquisition of the Corporate Debtor's land that had already taken place in the past, prior to the initiation of CIRP of the Corporate Debtor.
- 6.37 The Ld. Sr. Counsel for EARC further contended that the commercial intent of the CoC regarding cash surplus and benefits that may arise, prior

---

to the approval of the resolution plan by this Adjudicating Authority, should be directed towards the creditors of the Corporate Debtor. In support of this assertion, EARC relies on certain provisions of the RFRP issued by the RP.

Clauses 9(e) and 13(V) of the RFRP provide the following:

Clause 9(e) *"Any cash balances retained in the Corporate Debtor shall be for the sole benefit, and to the order of the creditors."*

Clause 13(V) *"The Resolution Applicant should provide in the resolution plan that all cash balances retained in the Corporate Debtor shall be for the sole benefit, utilization for the corporate insolvency resolution process, and to the order of the committee of creditors."*

6.38 On the other hand, the Ld. Counsel for SRA contends that the possibility of acquisition of the Corporate Debtor's land was a fact which was known to all parties much prior to approval of the Plan, and this can be evinced from the Information Memorandum as well as the data made available on the VDR. It is submitted that his Plan provides, in clause 4.2.10, that compensation generated from the acquisition accrues solely to the benefit of the SRA. Clause 4.2.10 of the Resolution Plan reads as follows:

*"Amounts paid on account of Unearned income (ACT), Urban Land (Ceiling and Regulation) (ACT), additional compensation from Dedicated Freight Corridor Corporation of India (Limited) on account of sale of land and compulsory acquisition of land whether shown in books or not, if results in net inflow would be receivable by the Resolution Applicant."*

---

*Also, all matters of land sale prior to the effective date or CIRP commencement date whether disclosed in the records or under disputes or appeals, matters where conclusion of such results into cash or asset inflows would be receivable by the Resolution Applicant.*

*The Resolution Applicant shall place such assets on records the amount if which shall be determined on the effective date.”*

The SRA, therefore, contends that the Resolution Plan specifically provided that compulsory acquisition of land, if it results in a net inflow, will be to the advantage and benefit of the Resolution Applicant.

6.39 As regards the clauses of RFRP relied on by the EARC, it is submitted that the money which is contemplated under the clauses of RFRP is the cash that is lying with the Corporate Debtor at the time when the approval of the Resolution Plan by the Adjudicating Authority takes place.

6.40 We have perused the relevant clauses in RFRP as well as the Resolution Plan. We have also perused the DP Plan annexed to the Valuation Report submitted by Mr. Baseek Bhagat, the Registered Valuer appointed by the RP, during the CIRP. The Ld. Counsel for SRA has drawn our attention to the DP Plan, which demarcates ‘Proposed Freight Corridor.’ Even otherwise, the DP Plan is a document available to the public. While SRA contends that it was aware of the possibility of acquisition of the Corporate Debtor’s land, the RP and CoC plead ignorance of the proposed acquisition till receipt of the Acquisition Notices. Be that as it may, the question is whether CoC can claim upside on the ground that the proposed acquisition was not within its consideration at the time of approval of the Resolution Plan. We are of the view that CoC cannot succeed in claiming upside merely on the strength of its argument of not

---

knowing the proposed acquisition. However, examination of clauses referred by the parties requires consideration only if the acquisition compensation is received before the disposal of the Resolution Plan Application. Hence, no order regarding acquisition compensation can be passed at this stage.

**Issue No.(iv)**

6.41 The EARC filed the EARC Second Application seeking remand of the Resolution Plan on the following grounds:

**(a) Non-consideration of all assets of Corporate Debtor.**

6.41.1 EARC contends that the Resolution Plan does not consider, include, or deal with the complete assets of the Corporate Debtor, as substantial land parcels of the Corporate Debtor were not known to the RP to be part of the assets of the Corporate Debtor at the time of valuation of the Corporate Debtor mandated under the Code or even when approval of the Resolution Plan by the CoC took place. Consequently, the details of these land parcels were not included in the Information Memorandum, and even SRA was unaware of them at the time the Resolution Plan was submitted. In the circumstances, the land parcels of the Corporate Debtor located at Village Katai, comprising 2.99 acres and Village Gharivali comprising 0.79 acres ('New Assets') were never factored for the purposes of the CIRP/valuation or the Resolution Plan at the time of its finalisation and approval by the CoC.

6.41.2 Even with respect to the Corporate Debtor's land in Village Bhopar (which was admittedly, the only land parcel known at the time of

---

approval of the Resolution Plan by CoC), it is pertinent to mention that the average liquidation value of the 6.08 Acres, forming subject matter of the Acquisition Notices was approximately only at the rate of Rs.1.69 Crore per acre as per valuation reports of the registered valuers. Whereas, in light of the impending land acquisition and the compensation offered in the Acquisition Notices, the value of the 6.08 acres of land in Village Bhopar has risen sharply. The compensation of approximately Rs. 120 Crore is receivable by the Corporate Debtor in respect of the said Bhopar land based on the compensation proposed by the Highways Authority in the Acquisition Notices, if consent in respect of the same is given to the Highways Authority by the Corporate Debtor/RP. The exponential rise in value (exceeding even the payouts under the Resolution Plan) is one of the paramount factors that warrant that the Resolution Plan in the present form must not be approved by this Tribunal, and the benefit of the acquisition should be given to EARC and other stakeholders.

6.41.3 It is submitted that substantial compensation is also proposed to be paid out to the Corporate Debtor towards the acquisition of the New Assets under the Highways Act.

6.41.4 The New Assets coming to the knowledge of the parties, coupled with the drastic increase in the value of the Corporate Debtor's land in Village Bhopar, are crucial and material changes that entail a significant change in the asset pool of the Corporate Debtor and drastically impact the commercial and correctness of the Resolution Plan. Had the New Assets been known to the RP/CoC

---

at the time of considering the Resolution Plan, the negotiations with SRA would have factored in the value of all such assets for the benefit of the stakeholders.

6.41.5 Since CoC had no opportunity to consider the complete assets of the Corporate Debtor at the time of negotiations and finalisation of the Resolution Plan, the CoC and other stakeholders of the Corporate Debtor cannot be made to suffer on account of the lack of information / poor record-keeping by the erstwhile management of the Corporate Debtor.

**(b) Unjust enrichment of SRA, at the cost of the stakeholders of the Corporate Debtor.**

6.41.6 As per the compensation being offered by the Highways Authority, it can be seen that the value of the land under acquisition has increased drastically. If the SRA were allowed to reap such benefits of the compensation from the Corporate Debtor's land, it would lead to a peculiar and prejudicial situation, wherein, on one hand, the CoC is taking massive haircuts i.e., in the range of 80% from the monies owed to it (and the Resolution Plan itself is below the liquidation value of the Corporate Debtor) and on the other hand, the SRA would end up recovering at least 1.3 times of the amount it is bringing in for making payouts to the creditors of the Corporate Debtor as part of the Resolution Plan. This certainly cannot be the intent of the Code and any interpretation/contention by SRA to support this position is clearly being done to make unjust enrichment for itself.

---

**(c) Vesting of the land proposed to be acquired has taken place almost 2 years after approval of the Resolution Plan by the CoC.**

6.41.7 The acquisition notices issued by the Highways Authority in respect of the Corporate Debtor's land refer to the Government of Maharashtra, Public Works Department Notification dated 10.08.2023, issued under Section 18(1) of the Maharashtra Highways Act, 1955. Therefore, clearly, the declaration and vesting in respect of the Corporate Debtor took place in 2023, i.e., almost 2 years after negotiations, consideration, and approval of FMPL's resolution plan by the CoC.

6.42 On the contrary, the SRA disputed all the contentions of EARC as under:

6.42.1 The reliefs sought by EARC in the two Applications run contrary to each other. In the EARC First Application, it seeks earmarking of the net gain to the stakeholders of the Corporate Debtor, and in the EARC Second Application, it seeks remand of the Resolution Plan for reconsideration by the CoC. It is further contended that, after EARC failed to make out a case, the Second Application was filed. These two Applications can never co-exist, and they are completely inconsistent with each other.

6.42.2 The SRA contends that it is factually incorrect to state that EARC/CoC were not aware of the proposed acquisition while voting on the Resolution Plan. The date of acquisition for compensation purposes, or the date of notification, may be later, but the project was announced well before the CIRP commencement. To support this argument, the Ld. Counsel for

---

the SRA referred to the valuation report uploaded to the VDR by the RP. The maps annexed to the said valuation report clearly indicate that an acquisition is proposed. This valuation report is also annexed to the Rejoinder filed in EARC First Application.

6.42.3 It is further contended that it is immaterial whether the CoC was aware or not, as it was in the public domain that the acquisition was going to happen. If they had not conducted their due diligence properly, one cannot be blamed for the same.

6.42.4 The Ld. Counsel also contended that, in any event, an incorrect valuation by RP and incorrect assessment by the CoC can in no manner be construed as a legitimate basis for withdrawal of the Plan. It is incumbent upon the CoC to have considered all relevant factors whilst deciding on the feasibility and viability of the Plan. Therefore, the CoC cannot be permitted to seek withdrawal and/or modification of the approved Plan merely on account of a change in its opinion regarding the Plan's commercial viability.

6.42.5 It is submitted that merely because there is a higher value in the Resolution Plan or the prices of properties have increased during the pendency of the Resolution Plan, and that there are better offers which have been received, has no bearing and cannot be a ground for remanding the Resolution Plan back to the CoC. In support of the above argument, the Ld. Counsel has relied on the decision of the Hon'ble NCLAT in *Express Resorts and Hotels Limited v. Amit Jain RP of Neesa Lisure Limited & Ors* [(2023) ibclaw.in 120 NCLAT]).

- 
- 6.42.6 The SRA also contends that, as per Clause 4.2.10 of the Resolution Plan, if the compulsory acquisition of land results in a net inflow, that will be to the advantage and benefit of the Resolution Applicant. Hence, any money that is realised by the sale of land prior to the effective date will be to the Resolution Applicant's advantage, and it is not open for the CoC to contend otherwise after having approved the Resolution Plan.
- 6.42.7 It is further contended that EARC is trying to ensure that the compensation is deposited in the account of the Corporate Debtor prior to the approval of the Resolution Plan by the Tribunal so that the compensation amount can be transferred to EARC with the help of RP whilst the control and management of the Corporate Debtor still vest with the RP.
- 6.42.8 Once the Plan is submitted to the Tribunal, the same is binding between the Successful Resolution Applicant and the Committee of Creditors. The maximisation of asset value cannot be an endless process, on the basis of which the Plan post-approval can be modified or remanded for reconsideration. There have not been any changes in circumstances that warrant modification or return of the Resolution Plan. Interference by the Adjudicating Authority is permitted only if the Plan contravenes the provisions of the Code.
- 6.43 We now propose to examine each of the rival contentions of the parties.
- 6.44 The principal argument of EARC is that New Assets coming to the knowledge of the parties, coupled with the drastic increase in the value of the Corporate Debtor's land in Village Bhopar, are crucial and material

---

changes affecting the commercial correctness of the Resolution Plan. The valuation Reports placed on record show that the valuation was conducted only for the land parcel located in Village Bhopar, District Thane, Maharashtra, and the leased premises in Village Sawardari, Thaluka Khed, District Pune, Maharashtra. The New Assets were evidently not valued. In respect of the New Assets, RP states that there are disputes regarding the land situated in the Village of Katai, as one Macrotech Developer claims development rights over a portion of the said land, and the matter is the subject of proceedings pending before the Civil Court, Kalyan. The said Macrotech has also filed objections regarding the acquisition before the Competent authority. This appears to be the reason for not including this land in the Corporate Debtor's records. As regards the land admeasuring 0.79 acres situate in Village Gharivali, the RP is not in a position to ascertain the ownership rights of the Corporate Debtor due to the unavailability of records and non-cooperation of the erstwhile management in the CIRP of the Corporate Debtor.

6.45 In *Pragati Impex India Private Limited v. Vistar Construction Private Limited* [IA. No. 3636/ND/2023 in CP. No. (IB) 662(ND)/2021], the Adjudicating Authority, while considering the application for approval of the resolution plan, noticed that certain additional properties were transferred in the name of the corporate debtor pursuant to a court order, during the corporate insolvency resolution process. However, the resolution professional has neither carried out valuation of these additional properties nor included them in the information memorandum notified by the resolution professional. In the circumstances, the Adjudicating Authority rejected the resolution plan and directed the resolution professional to carry out a fresh valuation of the assets and

---

issue a fresh Form G.

6.46 In *IFCI Limited v. Raja Palanikunnathil Kesavan and Another* [(2025) ibclaw.in 934 NCLAT], the Hon'ble NCLAT, while noticing various discrepancies, such as not valuing all assets, not including several assets as a part of the information memorandum of the CIRP of the corporate debtor, observed as under:

*“36. For proper exercise of commercial wisdom by the Committee of Creditors all aspects should have been placed before the Committee of Creditors. Admittedly during the pendency of this appeal various valuable new assets have since been detected which were admittedly not a part of the Corporate Insolvency Resolution Process of Corporate Debtor at all. Thus, when crucial aspects were never placed before the Committee of Creditors it cannot be said the Committee of Creditors’ commercial decision would prevail, as all ‘relevant information’ was not available before it.*

*37. The Successful Resolution Applicant is all set to take new assets for free citing Clause 13.11(supra) of the Resolution Plan. Admittedly the Resolution Plan has been approved by the committee of Creditors viz., by majority of home buyers whereas the secured financial creditors in the Committee of Creditors had dissented. Admittedly Attipura land, a third-party asset, not owned by the Corporate Debtor and upon which the Corporate Debtor had development right through a joint venture agreement dated 30.11.2012 and in consideration thereof 23% of its super built up area was to come to the third-party land owners, which area was rather mortgaged with the Bank, was not valued at all, without any explanation provided by the Resolution Professional. Even the*

---

*Poonithura land was not valued by the Resolution Professional despite the fact Form C of the appellant and Information Memorandum of Corporate Debtor make a reference to the land as well as its mortgage to the appellant and since it was not made part of the Resolution Plan, it also along with new assets so discovered, all are sought to be taken away by the Successful Resolution Applicant by placing reliance on Clause 13.11 of the Resolution Plan (supra), which to our mind would never be fair.”*

6.47. In *Pragati Impex* (supra), the Adjudicating Authority noted lapses by the resolution professional in failing to value the assets transferred to the corporate debtor under a court order. In *IFCI Limited* (supra), the Hon’ble NCLAT noticed various discrepancies in the valuation of known assets. The present is not a case in which certain known assets were omitted from the valuation. The RP was not aware of these assets as the books of the Corporate Debtor did not reveal these assets at time of valuation. Hence, we are of the view that the facts of the cases in *Pragati Impex* (supra) and *IFCI Limited* (supra) are very different and thus inapplicable in the present case.

6.48 In *SPS Steels Rolling Mills Limited v. Indian Overseas Bank and Ors* [Company Appeal (AT) (Ins) No. 353 of 2024] the successful resolution applicant, after implementation of the resolution plan and payment of dues to the creditors, sought a direction from the Adjudicating Authority against one of the creditors to return the fixed deposits lying in the name of the corporate debtor. The Adjudicating Authority, after going through the approved resolution plan, held that there is no scope for the successful resolution applicant to realise any extra amount on account of such deposits or, for that matter, any other amount apart from whatever

---

is there as assets in the information memorandum. However, on appeal, the Hon'ble NCLAT observed:

*“37. It needs to be appreciated that the Corporate Debtor may hold large number of physical as well as financial assets. Sometimes, due to many reasons some of such physical assets or even financial assets, might have been skipped from the Resolution Professional and therefore, same might not have been mentioned in the information memorandum”*

*“40.....The Appellant gave its Resolution Plan based on the information memorandum prepared by the Resolution Professional. It is also observed that in information memorandum there was no clause that any assets not mentioned in the information memorandum will not be passed on the Appellant being the SRA, or in other words such assets will be given to Erstwhile CoC. In view of this, we do not find merit in the argument of the Respondent Banks on this aspect.”*

6.49 In the present case, the Resolution Plan contains a specific clause regarding other assets, which reads as follows:

*“9.1 Any action about the assets/claims/rights, etc., as mentioned in the balance sheet as well as off-balance sheet items, including contingent assets, of the Corporate Debt or as on the effective date, shall be the assets/claims/rights of the Resolution Applicant and shall be dealt with by the Resolution Applicant at its sole discretion.”*

6.50 It is also pertinent to note that the land parcel at Katai is subject to litigation, and the land parcel at Gharivali is assessed at a value of Rs.22,11,512/-. Thus, the value of New Assets not forming part of the information memorandum and/or valuation is not substantial as

---

compared to the total value of the Resolution Plan. It is to be acknowledged that the chances of some of the assets of the corporate debtor not being valued, or being missed or undervalued, especially for intangible assets, off-balance sheet items, and assets for which beneficial interest has already been transferred, are very high in many cases, especially where the records of the corporate debtor are not properly maintained or where the erstwhile management is not co-operating in providing comprehensive records and information pertaining to corporate debtor. Additionally, the Code contains no provision for treating overlooked assets differently from the corporate debtor's resolution process.

- 6.51 In view of the aforesaid discussions and based on the decision of the Hon'ble NCLAT in *SPS Steels* (supra), it would not be possible for the Adjudicating Authority to consider the discovery of New Assets or purported drastic increase in the value of the assets forming part of the Resolution Plan as a ground justifying modification or remand of the approved Resolution Plan to CoC for reconsideration.
- 6.52 The next question arising for consideration is whether unjust enrichment of SRA, at the cost of the stakeholders of the Corporate Debtor, can be permitted through a resolution plan approved under the Code.
- 6.53 The Ld. Sr. Counsel for EARC vehemently contended that the SRA cannot be allowed to reap the benefits of the acquisition compensation, which would result in unjust enrichment when other stakeholders are taking massive haircuts in the range of 80% of the admitted claim. In support of the above argument, the Ld. Counsel relied on the judgement of the Hon'ble Supreme Court, in *Nagpur Golden Transport Co. (Regd.)*

---

*v. Nath Traders*, [(2012) 1 SCC 555], wherein the Hon'ble Supreme Court observed as under:

*“10. .... If the damaged monoblock pumps are not returned by Respondent 3 to the appellant or if the value of the damaged monoblock pumps realised by Respondent 3 is not paid to the appellant, Respondent 3 would stand unjustly enriched. To quote Lord Wright in Fibrosa Spolka Akcyjna v. Fairbairn Lawson Combe Barbour Ltd: (AC p.61)*

***“..... any civilised system of law is bound to provide remedies for cases of what has been called unjust enrichment of unjust benefit, that is, to prevent a man from retaining the money of or some benefit derived from another which it is against the conscience that he should keep. Such remedies in English law are generally different from remedies in contract or in tort, and are now recognised to fall within a third category of the common law which has been called quasi-contract or restitution.”***

6.54 It is observed that the Hon'ble Supreme Court in *Nagpur Golden* (supra) was examining the demand for return of damaged goods from consignor after payment of actual price by carrier to consignees under the Indian Contract Act, 1972. The facts of the present case are entirely different, and the Resolution Plan, as held by the Hon'ble Supreme Court in *Ebix Singapore* (supra), is a creation of the statute and cannot be construed as a pure contract between two consenting parties, prior to its approval under Section 31 of the Code. Furthermore, it is widely acknowledged that resolution applicants aim to acquire distressed companies for quick and smooth takeover of the business, often accompanied by a valuation advantage. Therefore, in our view, no resolution plan, once approved by

---

the CoC, should be subject to challenge on the grounds that it results in unjust enrichment of the successful resolution applicant. Consequently, we find no merit in the contention that the SRA is unjustly enriched.

6.55 The EARC also contends that the declaration and vesting in respect of the Corporate Debtor took place in 2023, i.e., almost 2 years after negotiations, consideration, and approval of the Resolution Plan by the CoC. This contention, in our view, does not support their case.

6.56 This takes us to the question of whether it is lawful for the CoC or Financial Creditor to seek modifications or remand of the Resolution Plan that is awaiting approval from the Adjudicating Authority.

6.57 The primary contention of EARC is that the key intent and object of the Code is value maximisation of the corporate debtor and maximum recovery to the stakeholders of the corporate debtor. The CoC, in its commercial decision, can reconsider a previously approved resolution plan that fails to meet the very object of the Code and is not in the best interest of the corporate debtor and its stakeholders. On the basis of the value maximisation, it is contended that the CoC can reconsider a resolution plan, and the Adjudicating Authority has the jurisdiction to pass appropriate directions in this regard.

6.58 In support of the value maximisation, the Ld. Counsel has relied on certain instances of reconsideration:

(a) The Co-ordinate bench of NCLT at Hyderabad in *Saurabh Kumar Tikmani v. Committee of Creditors of M/s. Lanco Amarkantak Power Limited & Anr.* (IA. No. 6 of 2024 in CP. NO. 420/2018), allowed CoC to conduct a challenge mechanism during the pendency of the application

---

for approval of the resolution plan, and ultimately, CoC approved a resolution plan submitted by another entity.

(b) The Hon'ble NCLAT in *JM Financial Asset Reconstruction Company Limited v. Mr. Venkatachalam, Resolution Professional of Raigarh Champa Rail Infrastructure Pvt. Ltd* [Company Appeal (AT) (CH) (Ins.) No. 230/2025] permitted reissue of Form G for the reason that inviting new PRAs to submit Eols will certainly increase competition and, in all likelihood, result in higher bids.

(c) The Hon'ble NCLAT in the matter of *Julabchand Jain v. Ramachandra D. Choudhary, RP of Vijay Timber Industries* [Company Appeal (AT) (Ins) No. 142 of 2021] observed that even after approval of the Resolution Plan by the CoC and laying it before the Adjudicating Authority, the CoC can change its mind and pass a resolution liquidating the corporate debtor subject to only exception that such course cannot be adopted after its conformation i.e., after approval of the Resolution Plan by the Adjudicating Authority.

(d) The Hon'ble NCLAT in the matter of *Bank of Maharashtra v. Videocon Industries Limited* [(2022) SCC OnLine NCLAT 6] held that the CoC is not functus-officio on the approval of the Resolution Plan and accordingly, the judicial precedents clearly established that the Adjudicating Authorities are competent to send back the Resolution Plan to the CoC for reconsideration.

6.59 On the other hand, the SRA contends that RP or the CoC can neither seek modification of the resolution plan nor seek remand of the resolution plan, which has been approved by the CoC and is pending adjudication before the Adjudicating Authority. The provisions of the Code do not

---

provide this power to the Adjudicating Authority. If CoC is allowed to withdraw/remand an approved resolution plan, it would affect the timelines, be equivalent to restarting the entire CIRP, lead to further delay, and go against the very object of the Code. Interference by the Adjudicating Authority is permitted only if the resolution plan contravenes the Code. Maximising asset value must be done within the specified timelines. The possibility of acquiring the Corporate Debtor's assets was known to all parties well in advance of the Plan's approval. As per settled law, a resolution plan is a binding contract between the CoC and SRA; therefore, they cannot withdraw the plan or amend the contract unless the plan is vitiated by fraud. In support of the above contention, the Ld. Counsel for the SRA relied on the judgment of the Hon'ble Supreme Court in *Ebix Singapore Ltd. v. Committee of creditors of Educomp Solutions Limited and Anr*, and also, the judgements of the Hon'ble NCLAT in *Union Bank of India on behalf of the CoC of Dewan Housing Finance Corporation Ltd v. Mr. Kapil Wadhwan and Ors*; and judgement in *Express Resorts and Hotels Limited v. Amit Jain, RP of Neesa Leisure Limited & Ors*.

6.60 In the present case, the Resolution Plan submitted by SRA has been approved by the CoC and is pending before the Tribunal for final approval. In the circumstances, it is necessary to understand the legal position of the Resolution Plan.

6.61 In *Ebix Singapore* (supra), the Hon'ble Supreme Court examined the exact nature of a resolution plan after it had been submitted to the Adjudicating Authority and before it had been approved under Section 31(1) and also the question of whether withdrawals or modifications by successful resolution applicants are permissible under the IBC and held

---

that:

*“161 We have held in Section H of this judgement that **Resolution Plans are not in a nature of a traditional contract per se, and the process leading up to their formulation and acceptance by the CoC is comprehensively regulated by the insolvency framework. In Section J, we have further held that the IBC framework, does not enable withdrawals or modifications of Resolution Plans, once they have been submitted by the RP to the Adjudicating Authority after their approval by the CoC. In any event, and without affecting the legal position formulated above, we will also deal with the submissions of the parties that the contractual terms of their respective Resolution Plans enabled withdrawal or re-negotiation of terms. We will be undertaking an analysis on whether the individual Resolution Applicants before us had specifically negotiated with the respective CoCs for a right of modification or withdrawal and are contractually entitled to the same in the present case.” (Emphasis Supplied)***

6.62 The ratio laid down by the Hon’ble Supreme Court in *Ebix Singapore* (supra) that no modification or withdrawal of the Resolution Plan is permissible is consistently followed in several other cases. However, the Ld. Sr. Counsel for EARC harped on the need to reconsider the commercial wisdom for value maximisation for stakeholders, which is one of the objectives of the Code. The Ld. Sr. Counsel for EARC further argued that this Tribunal has the jurisdiction and powers to pass appropriate directions, including to send back the resolution plan for reconsideration of the CoC, so as to ensure value maximisation for the Corporate Debtor and to ensure no stakeholders are affected adversely. The Ld. Senior Counsel relied on the judgement of the Hon’ble Supreme

---

Court in *Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta* [(2020) 8 SCC 531], which, in the context of examining the jurisdiction of NCLT and NCLAT qua resolution plans that have been approved by the committee of creditors, held thus:

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

---

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

6.63 In the present case, what calls for consideration is not the extent of judicial review available to the Tribunal in respect of the resolution plan submitted for approval, but whether CoC can seek modification or recall of the resolution plan pending consideration before the Tribunal. Thus, the ratio laid down in the case of *Essar Steel* (supra) has limited application to the facts of the present case. Further, the judgement in *Ebix Singapore* (supra) elaborates and sets out several reasons why the resolution applicant cannot be permitted to withdraw or modify the

---

resolution plan after approval by the committee of creditors, which include delay, consequences of the delay, and the uncertainty and complexities that would arise in the corporate insolvency resolution process.

6.64 It is pertinent to note that the Hon'ble Supreme Court, after referring to the decision in *Ebix Singapore* (supra), held in *State Bank of India & Ors v. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch & Another*, as under:

*“116. In light of the aforesaid, it is clear that the existing insolvency framework does not provide any scope for effecting further modifications or withdrawals of the Resolution Plan approved by the CoC, at the behest of the successful resolution applicant, once the plan has been submitted to the adjudicating authority. The submitted Resolution Plan is binding and irrevocable as between the CoC and the successful resolution applicant in terms of the provisions of the IBC, 2016 and the 2016 Regulations as well. In other words, once a CoC-approved resolution plan is submitted to the Adjudicating Authority i.e., NCLT, it immediately becomes binding on the CoC and the SRA, even if the Adjudicating Authority has not yet given its stamp of approval on the same. While deciding so, this Court re-emphasized the object under Section 31(1) of the IBC, 2016 and observed that once the Adjudicating Authority has approved the plan under Section 31(1) of the IBC, 2016, the Resolution Plan is binding on all the stakeholders including those stakeholders who are not direct participants of the CIRP. Therefore, there is absolutely no scope for modification of the terms of a Resolution Plan which has received the imprimatur of the Adjudicating Authority, be it by the Adjudicating Authority itself, the CoC or the SRA.”*

---

6.65 Since the law as regards modification or withdrawal of resolution plan has been laid down by the Hon'ble Supreme Court in *Ebix Singapore* (supra) and consistently followed in many other cases by the Hon'ble Supreme Court, the decisions of NCLT and NCLAT in the matters of *Saurabh Kumar Tikmani* (supra), *JM Financial*(supra), *Julabchand Jain* (supra) and *Bank of Maharashtra* (supra) cannot be considered as the binding precedent as regards modification or withdrawal of resolution plan is concerned.

6.66 In *Kalinga Allied Industries India Pvt Ltd. v. Committee of Creditors (Bindals Sponge Industries Limited) and Anr.*, [(2022) ibclaw.in 1053 NCLAT], the Hon'ble NCLAT observed as under:

*“8. Though the main issue raised in ‘Ebix Singapore Pvt. Ltd.’ (Supra) is with respect to withdrawal/modification of a Resolution Plan by an SRA, the Hon’ble Supreme Court has clearly laid down that ‘the NCLT is Residuary Jurisdiction [under Section 60(5)(c)] though vide, is nonetheless defined by the text of the Code. Specifically, the NCLT cannot do what the IBC consciously did not provide it the power to do’. Further, the Court observed that ‘this Court must adopt an interpretation of the NCLT is Residuary Jurisdiction which concurs with the broader goals of the Code’. ‘Ebix Singapore Pvt. Ltd.’ (Supra) has observed that strict timelines have to be adhered to and that the Adjudicating Authority lacks the authority to allow the withdrawal/modification of the Resolution Plan by an SRA, as this would defeat the very objective of the statute. In the instant case, though it is not the SRA which is seeking withdrawal, the effect of the CoC seeking withdrawal of an already approved Resolution Plan would have identical repercussions with respect to ‘timelines’ as the same would have the effect of restarting the CIRP*

---

*Process from the valuation stage when all the statutory timelines have long since been exhausted. The principle with respect to 'timelines' is applicable to the facts of this case. At the cost of repetition, it is crystal clear that any modification or a withdrawal (by SRA or otherwise) after approval by the CoC and submission to the Adjudicating Authority, 'irrespective of the content' of the terms envisaged by the Resolution Plan, would only lead to further delay and defeat the very scope and objective of the Code. The existing framework does not provide any scope for effecting any further modifications or withdrawals of the CoC approved Resolution Plan by the SRA or the Creditors. The Adjudicating Authority can interfere only if the Plan is against the provisions of the Code. Once the Plan is submitted to the Adjudicating Authority, it is binding and irrevocable as between the CoC and the SRA in terms of the provisions of the Code. This Tribunal in 'Steel Strips Wheels Ltd.' Vs. 'Shri Avil Menezes Resolution Professional of AMW Autocomponent Ltd. & Ors., placing reliance on 'Ebix Singapore Pvt. Ltd.' (Supra), observed that any consideration of a belated Plan would breach both the timelines as well as the finality of a Resolution Plan approved by the CoC on an earlier date. The contention of the Learned Counsel for the first Respondent that the Code provides for 'Maximisation of the Value of Assets' and therefore a higher value offered is to be considered, is untenable, as in the instant case, the maximum timeline permissible for completion of the said process has lapsed and the CIRP has been ongoing since 11.05.2018 and more than four years have lapsed since then. The decisions relied upon by the Respondents in 'Siva Rama Krishna Prasad' (Supra) and in 'Gulabchand Jain' (Supra), are not applicable to the facts of this case as the issues raised in those cases is with respect to withdrawal of the approval by the CoC to the Resolution Plan, recommending Liquidation*

---

*of the 'Corporate Debtor'. In this case, the CoC sought fresh consideration for another Plan after completion of all timelines. It is pertinent to mention that these Judgements are prior to the ratio laid down by the Hon'ble Apex Court in 'Ebix Singapore Pvt. Ltd.' (Supra). It is the case of the Intervenors that I.A. (IB) No. 815/2021 in C.P. IB No.-60(PB)/2018 is still pending Adjudication before the Adjudicating Authority and that the Appellant has no vested right for consideration of its Resolution Plan as they only continue to remain a prospective Resolution Applicant. At this juncture, it is significant to mention that the Order passed by this Tribunal in 'Kalinga Allied Industries India Pvt. Ltd.' (Supra), has set aside the Order of the Adjudicating Authority observing as follows:*

*"With the aforesaid, we are of the view that when the Application for approval of Resolution Plan is pending before the Adjudicating Authority at that time the Adjudicating Authority cannot entertain an Application of a person who has not participated in CIRP even when such person is ready to pay more amount in comparison to the successful Resolution Applicant. If a Resolution Plan is considered beyond the time-limit then it will make a Company Appeal (AT) (Ins.) No. 518 of 2020 never-ending process. Thus, impugned order is not sustainable in law as well as in fact. The impugned Order is hereby set aside.*

*9. This Order has attained finality and no fresh consideration of any Resolution Plan at this stage can be entertained. It is reiterated that the 'Maximisation of Value of Assets' ought to be 'within the specified timelines' and if it is not a 'timebound process', the entire scope and objective of the Code would fail merely because there is another higher offer made by a third party, the CoC cannot consider another Plan of a*

---

*third party who did not participate in the CIRP Proceedings. For all the ongoing reasons, this Tribunal is of the earnest view that once Plan is submitted for approval, it is binding between the CoC and the SRA, unless there is any material irregularity or is against the provisions of Section 30(2) of the Code the Adjudicating Authority cannot, in its limited jurisdiction, interfere.”*

6.67 It is important to note that the decision in *Essar Steel* (supra) also recognised the importance of the timely resolution of stressed assets. In the present case, although the CIRP was initiated on 29.01.2021, the Resolution Plan Application remains pending even after five long years, primarily due to multiple applications and delays in legal proceedings. Reconsideration of the commercial decision would lead to restarting the CIRP, for which there is no express provision in the Code. If the legislature intended to give CIRP a fresh start at any time before the approval of the Resolution Plan, it would have prescribed the same in specific terms. It is a settled principle that the courts should not arrogate the legislature’s role by filling gaps in the statutory text. Statutory enactments like the IBC demand strict adherence to legislative intent, guarding against procedural overreach that may upset the framework envisioned by the Parliament.

6.68 In *Express Resorts and Hotels Limited v. Amit Jain RP of Neesa Leisure Limited & Ors* [Company Appeal No. 1158 of 2022], the Hon’ble NCLAT held:

*“25. The present is not a case where in the process, which was completed by approval of the Resolution Plan by the CoC any breach has been committed. When after following the provisions of the Code and*

---

*Regulations, the Resolution Plan has been approved by the Adjudicating Authority, the said approval by the CoC has to be respected and cannot be interfered with in exercise of judicial review by the Adjudicating Authority. More so, when there is no such ground that the Plan approved, violates any of the provisions of Section 30, sub-section (2). The object of IBC is to revive the Corporate Debtor and put it again on the track. When a Resolution Plan, has been approved after due deliberations, in exercise of commercial wisdom of the CoC, it has to be accepted that Corporate Debtor was decided to be revived by the Resolution Plan. The mere fact that certain other offers have been received after the approval of the Resolution Plan, CoC cannot have a change of heart and start clamoring before the Adjudicating Authority that they have no objection to sending back the Resolution Plan for reconsideration. This will be permitting an unending process, since by passing of time situation keeps on changing. After coming to know about the financial offer in a Plan, which has been approved by the CoC, any subsequent offer by any entity, who did not participate in the process earlier, cannot be entertained.”*

- 6.69 When we analyse the factual matrix of the present case, it is observed that the Resolution Plan approved by the CoC reflects the commercial bargain between the CoC and the SRA, based on the information available to RP, the valuation of assets conducted by the Registered Valuers, disclosures made in the Information Memorandum and VDR. There is no allegation of foul play in the process and in the exercise of commercial wisdom. However, the receipt of Acquisition Notices and the likely bounty of acquisition compensation prompted the CoC, particularly the EARC, to make a claim on the net gain from acquisition, followed by another application to re-exercise commercial wisdom, taking into

---

account the changed circumstances. Maximisation of value of assets is one of the objectives of the Code and not the only objective. The whole Preamble needs to be read together to gain insight into what the Code seeks to achieve. Maximisation of value cannot be pursued by ignoring other objectives; it needs to be done within the specified timeframe. Otherwise, the Code's objectives cannot be achieved. Furthermore, such an action would cause uncertainty and unpredictability to the process and introduce complexity not contemplated by the legislature.

- 6.70 Based on the above discussions, we hold that the Resolution Plan pending consideration of the Tribunal cannot be remanded back to the CoC for reconsideration to maximise the value of assets of the Corporate Debtor.

### **Findings**

7. In the result, we answer the queries raised by us and dispose of the applications as under:
- 7.1 **Issue No.(i):** After expiry of the CIRP period, including the period of extension granted by the Adjudicating Authority, the powers of the RP are limited to undertaking actions that are necessary for maintaining the Corporate Debtor as it was and safeguarding the assets. Neither CoC can decide on matters that affect the Resolution Plan submitted before the Adjudicating Authority, nor can the Adjudicating Authority grant any approval to give effect to any resolution which affects the Resolution Plan, unless such change is consented to by the Successful Resolution Applicant. Accordingly, the RP or the CoC has no right to take decisions for the sale, transfer, or surrender of rights, with respect to the assets of the Corporate Debtor for which the Resolution Plan has already been approved by the CoC and is pending approval from the Adjudicating Authority. Consequently, **IA. No. 4485/2024** (RP Application) is **dismissed** and **IA. No.**

---

**4759/2024** (SRA Application) is **allowed** in terms of **prayers (a) to (d)**.

- 7.2 **Issue No.(ii)**: The SRA has the necessary locus to file the Application against the Corporate Debtor and also has the right to be heard on any actions that directly impact the Resolution Plan it submitted and approved by the CoC, so long as the Plan remains binding.
- 7.3 **Issue No.(iii)**: After approval of the Resolution Plan, the CoC cannot claim net gain arising out of the proposed acquisition of land belonging to the Corporate Debtor on the ground that the proposed acquisition was not within its consideration at the time of approval of the Resolution Plan. However, the applicability of different provisions of the RFRP and the Resolution Plan with respect to acquisition compensation is left open for determination at the time of disposal of the Resolution Plan Application, if the situation warrants. Accordingly, **IA. No. 3983/2024** (EARC First Application) is **partly allowed** in terms of **prayer (a) alone**.
- 7.4 **Issue No.(iv)**: Discovery of new assets or drastic increase in the value of assets on account of change in circumstances, is not a justification for reconsideration of the Resolution Plan after the same having been approved by the CoC and submitted to the Adjudicating Authority. No modification or withdrawal of the Resolution Plan pending consideration before the Adjudicating Authority is permissible and the Resolution Plan approved by the CoC cannot be remanded back for maximisation of value of the Corporate Debtor. Accordingly, **IA. No. 3071/2025** (EARC Second Application) is **dismissed**.
- 7.5 Considering the nature of these Interim Applications, no order as to costs.

**Sd/-**  
**ANIL RAJ CHELLAN**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**K. R. SAJI KUMAR**  
**MEMBER (JUDICIAL)**