

IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH-II

IA(IBC)No.1421/KB/2025

In

CP(IB) No. 652/KB/2019

State Bank of India

...Financial

Creditor

Versus

R.P Infosystem Limited

... Corporate

Debtor

And

Authum Investment & Infrastructure Limited

Having its Corporate Office at:

The Ruby, 11th Floor, Northwest Wing,

Plot No. 29, Senapati Bapat Marg,

Dadar(West), Mumbai-400028

And Branch Address at:

3/2, 3rd Floor, 75 C, Park Street,

Kamdhenu Building, Kolkata,

West Bengal-700016

Applicant

Versus

1. Ramanathan Bhuvaneshwari,
Resolution Professional of R.P Infosystem Limited
Bearing No. IBBI/IPA-002/
IP-N00306/2017-18/10864,
Having registered address at:
C-006, Pioneer Paradise, 24th Main Road,
7th Phase, JP Nagar, Bangalore-560078

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And also at:

Centre Point Building, Room No. 2014
2nd Floor, Premises No. 21, Hemanta Basu Sarani
Opposite Great Eastern Hotel,
Kolkata-700001, West Bengal

Email ID: bhoona.bhuvan@gmail.com
cirpinfo@gmail.com

2. Malay Rohitkumar Bhow jointly with
Genex Enterprise, having office at:
18, Hans Residency, Opp. Samutkarsh Hall,
Anandnagar Main Road, Satellite,
Ahmedabad-380015

Email ID: casumit97@gmail.com

3. Committee of Creditors, through
Lead Bank Creditor Being IDBI Bank Ltd,
Having its address at:
NMG, Kolkata IDBI House,
44 Shakespeare Sarani Kolkata-700017
West Bengal.

Email ID: ad.dash@idbi.co.in

Avinash Kumar Avinash.kumar@idbi.co.in

Respondents

(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016
read with Rule 11 of NCLT Rules 2016)

Order Pronounced on: 22.6.2026

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CORAM

LABH SINGH, HON'BLE MEMBER (JUDICIAL)
REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

Present:

For Petitioner : Mr. Joy Saha Ld. Sr. Advocate
For Respondent no. 1 : Ms. Manju Buteria Ld. Sr. Advocate

O R D E R

(Heard through Hybrid mode)

1. The present Petition has been filed by the applicant, Authum Investment and Infrastructure Limited claiming dissenting secured Financial Creditor, under Section 60(5) of IBC Code 2016 seeking rejection of resolution plan approved by the CoC.
2. It has been submitted that there is non-compliance of provision of Section 30(2)(b)(ii) of the Insolvency & Bankruptcy Code 2016(for short "IBC Code") and Regulation 37 of IBBI(CIRP) Regulation 2019 and other provision of the IBC Code and CIRP Regulation 2019.
3. It has further been submitted that the applicant is sole secured Financial Creditor in respect of certain assets and properties of the corporate debtor. Therefore, the applicant is exclusively entitled to the sale proceeds. The applicant is exclusively entitled to sale proceeds of its security interest in terms of Section 52 of IBC Code 2016.
4. The applicant, being a dissenting financial creditor, is entitled to the value of its security interest in priority and

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cannot be paid in terms of the amount payable to assenting financial creditors under the plan. The applicant, in terms of revised resolution plan, as a dissenting financial creditor shall receive an amount of Rs. 91,04,813.01/- corresponding to its 2.05% share in the CoC.

5. It has further been submitted that the applicant as secured financial creditor with exclusive and superior security interest is entitled to receive at least the liquidation value of its security under the amended provision of Section 30(2)(b)(ii) which is approximately Rs. 7,60,10,488/-. However, the Committee of Creditor and Resolution Professional are proceeding with pro-rata distribution of resolution and have failed to reflect the superior value of the applicant's security interest. This is being done despite repeated objections raised by the applicant during multiple CoC meetings particularly in 10th and 19th CoC meetings through written communication. The approved resolution plan misrepresents dissatisfaction of security interest, violates the provision of IBC Code and Regulations and undermines the principle of fair and equitable treatment.
6. Therefore, in view of the above, the applicant prays for rejection of the resolution plan on ground of illegality, procedural impropriety and statutory non-compliances.
7. Respondent No. 1 appeared in pursuance of notice issued by this Tribunal and filed its reply stating therein that the present

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application filed by the applicant, one of the dissenting secured Financial Creditors, is frivolous and not maintainable under law, and therefore liable to be dismissed.

8. On merits, it has been replied that the Resolution Plans deals with the treatment of all the creditors and the manner in which the payment shall be made. The Secured Financial Creditors are entitled to be paid as per their voting share and the same is applicable to the applicant. The Resolution Plan approved by the CoC provides payment to the applicant as per its voting share despite the fact that the applicant's exclusive mortgage on assets of the Corporate Debtor is in violation of the terms and condition of the loan agreement entered between the Corporate Debtor and Consortium of lenders (Financial Creditors).
9. It is pertinent to note that the terms and conditions of the loan agreement provides that the Corporate Debtor cannot create any further charge on any of the assets of the company/lien on cash flows without the prior approval of IDBI Bank. The Corporate Debtor and the applicant's assignor acted in violation of the said agreement by creating a charge on the assets of the Corporate Debtor without taking prior approval of IDBI Bank. It is pertinent to note that the loan was assigned to the applicant by Suraksha Asset Reconstruction Limited in respect of a loan granted by Reliance Commercial Finance Limited; and therefore, it was the duty of the applicant to

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conduct a proper due diligence before taking over the loan of the Corporate Debtor and cannot raise such issues which are bad in law.

10. It has further been submitted that despite the applicant having derived its security interest from the assignors in violation of the aforementioned loan agreement, the Financial Creditors, in the spirit of equitable resolution, treated the applicant at par with other Secured Financial Creditors of the consortium. Consequently, the CoC approved the sharing of proceeds under the Resolution Plan in accordance with the respective voting shares of all Secured Financial Creditors, including the applicant.
11. The applicant actively participated in the CIRP throughout its duration and, at no point during the process, raised any objection other than with respect to the distribution pattern. The applicant has now, at this belated stage, sought to raise new issues by filing the present application, which is impermissible and bad in law. Therefore, the present application deserves to be dismissed being devoid of merits.
12. Respondent No. 2 filed its separate reply contending therein that it has no role or authority in (a) admission or rejection of any creditor's claim; (b) constitution or reconstitution of the CoC; or (c) disclosure of voting results. These responsibilities are statutorily vested in the Resolution Professional.

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13. It has been replied that at the time of submission of its Resolution Plan and offer of the plan consideration, it was not made aware of the fair value and liquidation value of the Corporate Debtor. Accordingly, the plan amount was proposed independently and commercially, based solely on information available in the data room and the feasibility assessment undertaken by the SRA, without any knowledge or access of any liquidation value payable to any dissenting creditors.
14. The answering respondent, being an external applicant, has no role or authority to opine, comment, or interfere with such verification or adjudication of claims. The process undertaken by the Resolution Professional or the CoC in that regard falls outside the domain or competence of the SRA.
15. It has further been replied that the disclosure of voting results or interim voting pattern is a matter exclusively within the administrative domain of the Resolution Professional. The SRA, as an applicant, has no access or participation in CoC meetings during voting, except when called upon to present or clarify aspects of the plan. The answering respondent, therefore, cannot offer any comment or justification regarding disclosure of voting results, alleged premature sharing of interim voting status, or the conduct of the RP in this regard.
16. The applicant's assertion that a commitment letter issued by the answering respondent at the request of the CoC member,

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State Bank of India, amounts to material modification of the Resolution Plan is legally untenable. The said commitment was a clarificatory undertaking to assure the CoC regarding timely payment and did not alter any term, consideration, or distribution under the Resolution Plan so submitted. It was a procedural and clarificatory step fully consistent with the transparency and good faith obligations inherent in the resolution process, and it did not require a fresh circulation or re-voting of the plan.

17. The answering respondent is bound by the status of statutory claims as verified by the RP and approved by the CoC. The SRA neither admits nor adjudicates such claims; and, therefore, has no comments to offer with regard to non-compliance of provision of IBC or Regulation. Therefore, the present application deserves to be dismissed.
18. Heard the submissions made by Learned Sr. Counsel for applicant, Ms Learned Sr. Counsel appearing for SRA, Learned Counsel appearing for Resolution Professional and CoC. We have perused the entire record of the present case. We have also appreciated the law applicable on the facts and circumstances of the present case.
19. In order to decide the controversy involved in the present case, it is relevant to refer to the minutes of the 19th CoC meeting held on 15.01.2025. A perusal of minutes of meeting reveals that the applicant participated in the meeting through

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Mr. Kisley Kanu along with Mr. Vishal Aralgudi. The CoC held discussion on agenda no. 4 wherein it has been noted that the discussion on mail of the applicant to consider its security interest in sharing matrix in the resolution plan had taken place. The CoC members by majority resolved that the applicant was present during all the CoC meetings and did not raise the issue till date. It has further been recorded therein that when the voting was at an advanced stage and many Banks have given their approval to the resolution plan and sharing matrix, it is not appropriate time to bring up this concern. It has further been recorded in minutes that RP had taken legal opinion on the secured creditors sharing matrix a few months back and circulated to all the members of CoC. Therefore, CoC members did not want to discuss this issue further.

20. Thereafter, the CoC held its 25th meeting on 29.05.2025 in which the applicant was also represented by its representative. The CoC by majority of 67.05% approved the resolution plan of SRA. The applicant dissented in the voting process. It has been stated in the agenda that the dissenting creditors, if any, shall be paid in compliance with the provision of the IBC Code 2016. The Resolution Plan was approved by a majority vote of 67.05%.

21. The important aspect for consideration is whether the payment directed to the applicant is in accordance with Section

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30(2)(b) of the IBC Code and the distribution decided by the CoC under Section 30(4) of IBC Code 2016 is equitable.

22. In order to decide the controversy, it is relevant to refer provision of Section 30 of the IBC 2016, which read as under:

“Section 30: Submission of resolution plan.

30. (1) -----

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;

(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than—

(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or

(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher, ***and provides for the payment of debts of financial creditors, who do not***

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

(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).

(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six per cent of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified by the Board”

23. Now it would be relevant to refer provision of Section 53 of the Code which provides for distribution of assets and same read as under –

(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the

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proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely: -

(a) the insolvency resolution process costs and the liquidation costs paid in full;

(b) the following debts which shall rank equally between and among the following:

(i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and

(ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;

(c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;

(d) financial debts owed to unsecured creditors;

(e) the following dues shall rank equally between and among the following: -

(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of

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the whole or any part of the period of two years preceding the liquidation commencement date;

(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;

(f) any remaining debts and dues;

(g) preference shareholders, if any; and

(h) equity shareholders or partners, as the case may be.

(2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.

(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.

Explanation. - For the purpose of this section-

(i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if

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the proceeds are insufficient to meet the debts in full; and

(ii) the term “workmen’s dues” shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013 (18 of 2013).

24. The Resolution Plan specifically states in Clause 3.2.3.2 that dissenting financial creditors would receive money in accordance with Section 53(1) of IBC 2016 and such payment shall be made in priority over payments to financial creditors who voted in favour of resolution plan as per Regulation 38(1)(b) of IBBI(CIRP) Regulation 2016. The relevant clause is reproduced verbatim as under:

“In the Resolution Applicants assessment, the Resolution Plan provides much higher payment than what the Financial Creditors would have got in case of liquidation of the Corporate Debtor. Notwithstanding that, if there are Financial Creditors, who has right to vote but did not vote in favour of the Resolution Plan and the amount payable to such Financial Creditors under the Resolution Plan is lower than what they would have got in accordance with sub-section (1) of Section 53 in the event of liquidation of the corporate debtor, Resolution Applicant shall ensure that payment to such Financial Creditor shall not be less than the amount payable to

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such creditors in accordance with sub section (1) of Section 53 and the said amount is paid in priority over financial creditors who voted in favour of the plan as per CIRP Regulation 38(1)(b)''.

25. Thus, Resolution Plan provides that if resolution plan provides for dissenting Financial Creditor amount less than what it would have got under Sub Section 53(1) of IBC Code then Resolution Applicant will ensure that payment to such Financial Creditor shall not be less than the amount payable in accordance with Sub Section (1) of Section 53 of IBC Code.
26. It is evident from minutes of the 25th meeting of CoC that the Resolution Plan was approved by the CoC on 29.05.2025. The applicant, who had 2.04% voting share, did not vote in favour of the resolution plan. The applicant is only Dissenting Financial Creditor. A Dissenting Financial Creditor is entitled to an amount as per Section 30(2)(b) of IBC Code and thus, being a Dissenting Financial Creditor, the applicant can claim the amount as per Section 30(2)(b) of IBC Code. The liquidation value of the Corporate Debtor is relevant for finding out the minimum amount which is to be paid to the dissenting Financial Creditor.
27. The provision of Section 30(4) vests the CoC with the power to approve the Resolution Plan and determine the manner of distribution in its commercial wisdom. The CoC, in its 19th meeting, reviewed its decision on inclusion of Edelweiss claim

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to the Financial Creditors and recommended for inclusion of the Edelweiss claim in the list of Financial Creditors. Accordingly, as per revised distribution of Resolution plan amount, the applicant is entitled as per its share.

28. Hon'ble Supreme Court in case of *India Resurgence ARC Private Limited Vs. M/s Amit Metaliks Limited & Anrs (2021) 19 SCC 672* in para no. 15 and 16 held that:

“15. The limitation on the extent of the amount receivable by a dissenting financial creditor is innate in Section 30(2)(b) of the Code and has been further expounded in the decisions aforesaid. It has not been the intent of the legislature that a security interest available to a dissenting financial creditor over the assets of the corporate debtor gives him some right over and above other financial creditors so as to enforce the entire of the security interest and thereby bring about an inequitable scenario, by receiving excess amount, beyond the receivable liquidation value proposed for the same class of creditors.

16. It needs hardly any emphasis that if the propositions suggested on behalf of the appellant were to be accepted, the result would be that rather than insolvency resolution and maximisation of the

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value of assets of the corporate debtor, the processes would lead to more liquidations, with every secured financial creditor opting to stand on dissent. Such a result would be defeating the very purpose envisaged by the Code; and cannot be countenanced.”

29. The same question came up for consideration before Hon’ble Supreme Court in case of ***DBS Bank Vs. Ruchi Soya Industries & Other 2024 INSC 14*** wherein Hon’ble Supreme Court taken a different view and ratio from India Resurgence ARC Private Limited (supra) on interpretation of Section 30(2)(b)(ii) of the IBC, and referred the matter to a Larger Bench and placed the matter before Hon’ble the Chief Justice for appropriate Order.

30. The question arises whether this Tribunal has to follow the view taken by the Hon’ble Supreme Court in case of India Resurgence ARC Private Limited(Supra) or Ruchi Soya Industries(Supra). On this aspect, Hon’ble Supreme Court in case of Union Territory of Ladakh and Ors Vs. Jammu & Kashmir National Conference, through its General Secretary (2024) 18 SCC has held in para no. 35 that:

“In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in National

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Insurance Company Limited vs. Pranay Sethi, (2017) 16
SCC 680.”

31. Therefore, in view of the above and law applicable thereon and with due respect to the judgment of Hon'ble Supreme Court in case of *DBS Bank(Supra)*, we are of the view that the distribution mechanism approved by the CoC in its commercial wisdom is valid, lawful, and binding, and it could not be altered at this stage. We are of the view that the payment directed to Respondent No.1 is strictly in accordance with Section 30(2)(b), read with Section 53(1) of the Code which has been duly approved by the CoC under Section 30(4), does not suffer from any inequity or illegality.
32. In view of the above and law applicable thereon, we do not find any merit in the present application and hence, the same is hereby dismissed being devoid of merits.
33. Consequently the present application stands disposed of as above.

REKHA KANTILAL SHAH
MEMBER (TECHNICAL)

LABH SINGH
MEMBER (JUDICIAL)