NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, COURT-I, CHANDIGARH

MA No. 4/2022
In
CP (IB) No. 250/Chd/Pb/2018
(Admitted)

[Application under section 60(5) of the Insolvency and Bankruptcy Code, 2016]

MA No. 4/2022 :

SARISH MITTAL

S/o Vipan Mittal,

Resident of 644, Aggar Nagar, Ludhiana 141001

Email: mittalsarish@gmail.com

Phone: 8427763231

....APPLICANT

Versus

NIPAN BANSAL,

Resolution Professional,

Resident of 10-B, Udham Singh Nagar, Ludhiana 141001

Email: irp@parshotamandassociates.com

....RESPONDENT

IN THE MATTER OF

CP (IB) No. 250/Chd/Pb/2018 (Admitted):

CENTRAL BANK OF INDIA

...Petitioner/Financial Creditor

Versus

KSM Spinning Mills Limited

...Respondent/ Corporate debtor

Order delivered on: 23.07.2026

Coram: **SH. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)**
SH. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Er. Sandeep Suri, Advocate
Mr. Karan Gaba, Advocate

For the RP : Mr. Manish Jain, Senior Counsel
Ms. Divya Sharma, Advocate
Mr. Siddhant Jain, Advocate
Mr. Manan Jain, Advocate
Mr. Pulkit Goyal, Advocate

ORDER

1. This Application has been filed in CP (IB) No. 250/Chd/Pb/2018 under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter "the Code") by Sarish Mittal, the Suspended Director of M/s KSM Spinning Mills Limited, (Corporate Debtor), against Mr. Nipan Bansal, the Respondent, Resolution Professional seeking a declaration that M/s C Mohan International, the Successful Resolution Applicant (hereinafter "SRA"), and Mr. Anil Rungta, a competing Prospective Resolution Applicant (hereinafter "PRA"), ineligible on account of an alleged undisclosed conflict of interest between them.
2. At the outset, it is clarified that the SRA, M/s C Mohan International, has not been impleaded as a party to these proceedings.

BRIEF FACTS

3. The brief facts, as stated by the Applicant, are summarised as follows:

(i) The CIRP of the Corporate Debtor was initiated on the Petition filed by Central Bank of India, and Mr. Nipan Bansal was appointed as the Resolution Professional. The RP issued a Request for Resolution Plan (hereinafter "RFRP") with CoC approval vide e-voting dated 12.03.2020, amended vide e-voting dated 31.07.2020. Three Resolution Plans were received from: **(a)** Mr. Anil Rungta; **(b)** M/s C Mohan International and **(c)** M/s Shiva Consultants Private Limited. Following CoC negotiations, M/s C Mohan International revised its offer to Rs. 38.00 Crores and emerged as the SRA.

(ii) The Applicant alleges that the SRA and Mr. Anil Rungta shared a close family and business relationship which was concealed from the CoC, thereby vitiating the competitive bidding process.

(iii) The SRA's contact persons as per its official website are Mr. Inder Mohan Jain, Mr. Manoj Jain, Mr. Sachin Jain, Mr. Manik Jain, and Mr. Rishabh Jain, with Mr. Sanjeev Jain listed as contact person of the SRA's sister concern, Navyug Enterprises.

(iv) Mr. Sanjeev Jain is the first cousin of Mr. Inder Mohan Jain, and Mr. Rishabh Jain is the son of Mr. Sanjeev Jain. A newspaper advertisement in Dainik Savera Times dated 31.08.2022 shows these persons publicly representing the SRA together.

(v) The Applicant relies on the Partnership Deed of M/s GNC Dyeing and Finishing Mills dated 30.06.2020 to establish that Mr. Anil Rungta, Mr. Sanjeev Jain, Mr. Rishabh Jain, and Mr. Garish Chopra were partners in GNC Dyeing thereby establishing, as the Applicant contends, a direct business link between the SRA's principals and the competing PRA.

(vi) The Applicant additionally relies on an ICICI Bank intimation letter at Page 429(B) of IA 914/2020, showing a loan facility of Rs. 20 Crores sanctioned jointly in the names of Mr. Inder Mohan Jain (SRA) and Mr. Garish Chopra (partner of Mr. Anil Rungta in GNC Dyeing), purportedly to fund the Resolution Plan. The Applicant contends this demonstrates that both Resolution Applicants were effectively a single party and that the inter-se bidding colluded.

(vii) The Applicant further contends that during CoC negotiations, the SRA revised its offer to Rs. 38.00 Crores while Mr. Anil Rungta merely revised his payment terms to 90 days, keeping his total bid at Rs. 29.97 Crores, suggesting coordinated bidding positions.

(viii) The Applicant had alerted the RP of this conflict vide emails dated 09.09.2020, 10.09.2020, and 20.09.2020. The RP replied on 22.09.2020 stating that all applicants had filed affidavits of eligibility under Section 29A and that Section 30(2) compliance was being examined. The Applicant contends this response was inadequate and constitutes mala fide dereliction of duty.

REPLY OF THE RESPONDENT

4. The Respondent, Resolution Professional (RP), filed its reply, which is summarised as under:

    (i) At the threshold, the RP stated that the application is liable to be dismissed for non-joinder of the SRA as a necessary party, since an adverse declaration of ineligibility cannot be passed against the SRA without hearing it.

    (ii) On merits, the RP submits that Section 29A of the Code governs ineligibility only where the Resolution Applicant and the Corporate Debtor are related parties; it does not apply to inter-bidder relationships. After due diligence on all submitted documents, all PRAs were found eligible under the Code and CIRP Regulations, having filed sworn affidavits affirming their Section 29A eligibility.

    (iii) The RP acknowledges that the Applicant has shown a contact person of the SRA to be related to another PRA, but submitted that this does not satisfy any statutory disqualification criterion. The application is characterised as an abuse of process filed by the Suspended Director to derail the CIRP.

REJOINDER OF THE APPLICANT

5. The Applicant in its rejoinder has countered the stance of the Respondent in the following manner:

(i) The Applicant grounded the challenge in the RFRP's conflict-of-interest clause, contending that it is a mandatory precondition for eligibility over and above Section 29A, and that the RP's silence on this ground amounts to a deemed admission.

(ii) The ICICI Bank loan sanction was also introduced for the first time in the Rejoinder. The Applicant additionally invoked Section 5(24A) of the Code to establish "related party" status and thereby attract Section 29A(j) read with Explanation I(iii), and pointed to Regulation 38(2)(b) of the CIRP Regulations for non-disclosure of management persons in the Resolution Plan.

SUBMISSION OF THE RP TO THE REJOINDER

6. The RP has made submission to the rejoinder in the following manner:

(i) The RP submitted that no objection as to conflict of interest was raised by the Applicant before the CoC at the relevant stage when the plans were considered, and that such objection is being raised for the first time before this Tribunal.

(ii) The RP further submitted that determination of any conflict of interest under the RFRP lies exclusively within the CoC's discretion, and that the RP's email response dated 22.09.2020, clarifying that Section 29A affidavits stood filed and that Section 30(2) compliance was under examination, duly discharged its statutory obligation in this regard.

(iii) The RP also objected to the Applicant introducing, for the first time in the Rejoinder, the ICICI Bank intimation letter as well as the plea based on Section 5(24A) read with Section 29A(j) of the Code, submitting that neither could be raised at that belated stage. Without prejudice to this objection, the RP submitted that clause (j) is, in any event, not attracted unless the connected person is shown to be independently ineligible under clauses (a) to (i).

ANALYSIS AND FINDINGS

7. We have heard at length the learned counsels for both sides and have carefully perused the material placed on record.

Issues

8. Having heard the learned counsels for both sides at length and having perused the documents placed on record carefully, the following issues arise for consideration:

(i) **Issue I:** *Whether the present application is maintainable for non-joinder of the necessary party, the SRA?*

(ii) **Issue II:** *Whether the alleged business and familial relationship between the SRA, M/s C Mohan International, and the competing PRA, Mr. Anil Rungta, constitutes a ground of ineligibility under Section 29A of the Code, either directly or through the conflict of interest clause of the RFRP?*

Issue I

9. At the threshold, the RP has raised the objection that the SRA, M/s C Mohan International, has not been impleaded as a party to these

proceedings, though the principal relief sought is a declaration that the SRA is ineligible and its status as SRA is vitiated. We are of the considered view that this objection is well-founded and goes to the root of the matter.

10. The relief prayed for, if granted, would directly strip the SRA of its status as an SRA. The SRA is therefore a necessary party without whose presence no effective or just order can be passed. The Applicant has not explained the non-impleadment of the SRA even at any stage of the Rejoinder submissions. To adjudicate upon the SRA's ineligibility in its absence would be to violate the tenet of natural justice. The application is liable to be dismissed on the ground of non-joinder of the necessary party, i.e., SRA.

Issue II

11. Before going into the merits of the case, Section 29A of the Code, which governs the eligibility of Resolution Applicants, is reproduced for ease of reference:

> *"**29A. Persons not eligible to be resolution applicant.** — A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person —*
>
> *(a) is an undischarged insolvent;*
>
> *(b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;*
>
> *(c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949, and at least a period of one year has lapsed*

from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor;

(d) has been convicted for any offence punishable with imprisonment for two years or more under any Act specified under the Twelfth Schedule, or for seven years or more under any law for the time being in force;

(e) is disqualified to act as a director under the Companies Act, 2013;

(f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

(g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code;

(h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;

(i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or

(j) has a connected person not eligible under clauses (a) to (i).

Explanation I. — For the purposes of this clause, the expression "connected person" means —

(i) any person who is the promoter or in the management or control of the resolution applicant; or

(ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or

(iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii)."

12. A plain reading of Section 29A of the Code, it reveals that every disqualification in clauses (a) through (i) is directed exclusively at the Resolution Applicant's own standing vis-à-vis the Corporate Debtor or

the general legal order i.e., insolvency status, wilful default, NPA classification of accounts related to the corporate debtor, criminal antecedents, directorial disqualification, SEBI prohibition, involvement in avoidance transactions of a corporate debtor, and guarantee obligations to a creditor of the corporate debtor. The legislative purpose and intent behind Section 29A of the Code is authoritatively settled by Hon'ble Supreme Court in ***Arcelormittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1***, where the Statement of Objects and Reasons of the Insolvency and Bankruptcy Code (Amendment) Bill, 2017, which introduced Section 29A, was reproduced and relied upon as follows:

> *"Concerns have been raised that persons who, with their misconduct contributed to defaults of companies or are otherwise undesirable, may misuse this situation due to lack of prohibition or restrictions to participate in the resolution or liquidation process, and gain or regain control of the corporate debtor. This may undermine the processes laid down in the Code as the unscrupulous person would be seen to be rewarded at the expense of the creditors. In addition, in order to check that the undesirable persons who may have submitted their resolution plans in the absence of such a provision, responsibility is also being entrusted on the committee of creditors to give a reasonable period to repay overdue amounts and become eligible."*

13. Hon'ble Supreme Court, proceeding on the basis of this legislative context, further held in unambiguous terms what Section 29A(c) is designed to achieve and whom it targets:

> *"Since Section 29A(c) is a see-through provision, great care must be taken to ensure that persons who are in charge of the corporate debtor for whom such resolution plan is made, do not come back in some other form to regain control of the company without first paying off its debts. The Code has bifurcated such*

persons into two groups, as a perusal of sub-clauses (c) and (g) of Section 29A shows. If a person has been a promoter, or in the management, or control, of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place, and in respect of which an order has been made by the Adjudicating Authority under the Code, such person is ineligible to present a resolution plan under Section 29A(g). This ineligibility cannot be cured by paying off the debts of the corporate debtor. Therefore, it is only such persons who do not fall foul of sub-clause (g), who are eligible to submit resolution plans under sub-clause (c) of Section 29A, if they happen to be persons who were in the erstwhile management or control of the corporate debtor."

14. The provision therefore answers only one question: *Is the Resolution Applicant, judged by its own conduct, antecedents, and legal standing in relation to the Corporate Debtor, a fit and proper person to take over the Corporate Debtor?* Every disqualification in clauses (a) through (i) is the legislature's answer to a specific category of unfitness, each referable to the Resolution Applicant's own relationship with the Corporate Debtor or the general legal order. Section 29A does not answer, and was never designed to answer, any question about the relationship between one Resolution Applicant and another. That question lies entirely outside the legislative field of the provision.

15. We have noted that the Applicant has sought to demonstrate, through a chain of documents including the website contacts of C Mohan International, the Partnership Deed of GNC Dyeing and Finishing Mills, the newspaper advertisement in Dainik Savera Times dated 31.08.2022, and the ICICI Bank intimation letter at Page 429(B) of IA 914/2020, an alleged network of familial and business connections between the principals of the SRA and Mr. Anil Rungta. It

is neither necessary nor appropriate for us to record a conclusive finding on whether these documents establish the connections alleged, for the reason that even accepting the Applicant's case, the critical question remains one of law: ***whether such an alleged inter-bidder relationship, howsoever characterised, constitutes a ground of disqualification under Section 29A of the Code***. The answer, on a plain and purposive reading of the provision, is no. Section 29A does not prescribe any disqualification based on the relationship between two competing Resolution Applicants inter se. What is relevant under Section 29A is the relationship between the Resolution Applicant and the Corporate Debtor and not the relationship between one bidder and another. The Applicant has neither alleged nor established that the SRA, M/s C Mohan International, or any of its principals bears any disqualifying relationship with the Corporate Debtor, M/s KSM Spinning Mills Limited, under any of clauses (a) to (i).

16. The Applicant's reliance on the opening expression "acting jointly or in concert" in Section 29A also does not advance the case. That expression operates to prevent a person who is independently disqualified under clauses (a) to (i) from circumventing the bar by acting through another entity.

17. Similarly, the Applicant's invocation of Section 29A(j) via the Section 5(24A) related party definition fails at the threshold: clause (j) requires, as a precondition, that the connected person be independently disqualified under one of clauses (a) to (i). The

Applicant has not established any such independent disqualification against any person in the alleged network of relationships.

18. The Applicant in the Rejoinder further relies on the conflict of interest clause of the RFRP, which reads as under:

> *"Conflict of Interest shall mean an event or circumstance, determined at the discretion of the COC, where a Resolution Applicant(s) is found to be in a position to have access to information about, or influence the Resolution Plan of another Resolution Applicant(s) pursuant to a relationship (excluding, and to the extent of any commercial relationship which may be existing between the Resolution Applicant(s) and the Corporate Debtor pursuant to the Ordinary Course of Business of the Resolution Applicant(s) or the Corporate Debtor) with the Corporate Debtor, Affiliates of the Corporate Debtor, directly or indirectly, or by any other means including colluding with other Resolution Applicant(s), the Corporate Debtor, or Affiliates of the Corporate Debtor."*

19. The Applicant contends that the RFRP, having been issued by the RP with CoC approval, constitutes a mandatory pre-condition of eligibility over and above Section 29A, and that the RP's failure to act on the specific documentary objections raised in the emails of September 2020 amounts to mala fide dereliction of duty. We are unable to accept this contention.

20. The RFRP clause itself unambiguously provides that a conflict of interest is an event or circumstance ***"determined at the discretion of the COC."*** The determination of whether a conflict of interest exists is therefore a function that the RFRP expressly and exclusively vests in the CoC. It is not for this Tribunal to usurp the CoC's discretion or to substitute its own assessment of inter-bidder relationships for that of the CoC.

21. Moreover, the RFRP is not a statutory instrument and cannot, by its own force, create grounds of disqualification beyond what Parliament has prescribed in Section 29A. The IBC occupies the field of Resolution Applicant eligibility; the RFRP operates within that field, not beyond it. Issue II is accordingly decided against the Applicant.

CONCLUSION

22. The present Application fails both on the ground of maintainability and on the merits. Therefore, we are of the considered view that the present Application fails both on the grounds of maintainability and on the merits.

23. Accordingly, **MA No. 4 of 2022 is *dismissed and disposed of.***

Sd/-	Sd/-
(SHISHIR AGARWAL)	**(KHETRABASI BISWAL)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Yuvraj