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

IA (IBC)-2518/2025
In
CP (IB)-1481/2019

IN THE MATTER OF CP-1481/2019:

Mr. Satyajeet Panda & Anr. ..... **Financial Creditor**

Versus

M/s A.N.S. Apartments Private Limited ..... **Corporate Debtor**

AND IN THE MATTER OF IA-2518/2025:

Mr. Suresh Chandra Agarwal ..... **Applicant No. 1**

Mrs. Omlata Agarwal ..... **Applicant No. 2**

Versus

Mr. Ramphal Bhardwaj,
R.P of M/s A.N.S. Apartments Pvt. Ltd. ..... **Respondent No. 1**

M/S Goldstar Realtors Limited
(*Successful Resolution Applicant*) ..... **Respondent No. 2**

Order Pronounced On: 31.07.2026

CORAM:

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

SHRI RAVINDRA CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant	:	Suresh Chandra Agarwal (Applicant in Person)
For the RP	:	Mr. Abhinav Mukarjee, Sr. Adv., Mr. Mohit Nandwani, Mr. Aabhas, Mr. Om Gulati, Advs.
For SRA	:	Mr. G.P. Madaan, Mr. Aditya Madaan, Mr. Akhaual Pratap Singh, Mr. Rahul Narula, Advs.

ORDER

PER: BACHU VENKAT BALARAM DAS MEMBER (JUDICIAL)

1. This application has been filed by Mr. Suresh Chandra Agarwal under section 60(5) read with Rule 11 of the NCLT Rules, 2016 seeking appropriate directions, change of Resolution Professional and rejection of the Resolution plan of M/s. Goldstar Realtors Limited and consequent Liquidation of Alstonia Apartments project of M/s. A.N.S. Apartments (P) Ltd. The Prayers sought by the Applicant reads as under:

"1. RP and SRA may kindly be directed to admit and pay full amount of applicant's claim in terms of RERA order with interest till date of payment.

2. Full payment may be made to the applicants within 45 days of the approval of the resolution plan as per RERA order.

3. All the 28 claims received by RP after the due date and up to seven days before COC meeting may be verified by RP and claims found acceptable be submitted with recommendation of COC to the Adjudicating Authority for condonation of delay and adjudication wherever applicable.

4. Disciplinary enquiry may kindly be initiated against RP Mr. Ramphal Bhardwaj. Pending enquiry RP may kindly be suspended and some other eligible person may be appointed as IRP/RP.

5. Matter of structural safety of towers in which unauthorised 13th floor is constructed may kindly be referred to CBRI Roorkee for structural audit.

6. If RP and SRA disagree to the above, the resolution plan may kindly be rejected.

7. Any other relief that this Hon'ble Tribunal may deem fit in the interest of the applicants."

2. It is submitted that the applicants jointly booked a flat in Alstonia project with the Corporate Debtor 19 years back on 19/07/2006. Allotment letter was issued by the corporate debtor the same day.

3. The Applicant approached the U.P. RERA on 21.11.2018 for refund of money because the Corporate Debtor did not start construction of the tower in which flat was allotted to the applicants. U.P. RERA passed a judgment in favour of the Applicant on 16.07.2019 for refund of money with interest at the rate of 9.6% per annum, accordingly, a recovery order for Rs.1759260/- including interest up to 08.01.2020 was issued.

4. However, it is submitted that before recovery could be effected as per the RERA Order, the CIRP in the present case was commenced on 06.12.2019. Consequently, the Applicant submitted their claim to the Resolution Professional on 17.02.2020 as Financial Creditor for the amounts awarded by U.P. RERA. The Resolution Professional admitted the Applicant's claim as a Homebuyer for a reduced amount Rs.1587061/-.

5. It is submitted that the Resolution Professional communicated the said decision after approval of the resolution plan by the CoC in August, 2020. The Resolution Professional in the process, violated the IBBI Regulations which requires the Resolution Professional to verify the claims and inform the Applicants within seven days.

6. It is submitted that the Applicant filed IA-4240/2022 for rejection of the resolution plan. The Hon'ble Principal Bench of the NCLT Delhi, vide order dated 17.07.2023, disposed of the said application with the following direction:

> ***"IA-4240/2022***
>
> *Though this application has been filed as an objection to the Plan. However, the applicant Mr. Suresh Chandra Agarwal along with his son Mr. Piyush Agarwal appeared before us in person and stated that he will be satisfied if his claim is accepted as a Financial Creditor in terms of the RERA order dated 22.11.2019. We are inclined to treat the present applicant as a Financial Creditor with all consequential benefits as per the Plan. No other objection was pressed to the plan. This issues with the approval of the Ld. Counsel Mr. Mohit Nandwani for the RP as well as the Ld. Counsel Mr. G.P. Madaan for the SRA.*
>
> *Accordingly, the IA-4240/2022 stands disposed of."*

7. The Applicants contended that the Resolution Professional acted contrary to the order dated 17.07.2023 passed by the Hon'ble Principal Bench, whereby the Resolution Professional was directed to admit the Applicant's claim as

Financial Creditor with all consequential benefits as per the Plan and has admitted their claim for Rs.760047/- and declined to admit claim in terms of the RERA order. The Applicant further alleged in this application that the Resolution Professional rejected the claims of 22 Homebuyers whose claims amounting into more than Ten Crores, in violation of Regulation 13 of the IBBI Regulations. The Resolution Professional instead of seeking condonation of delay under Section 13 of the Code has rejected the claims at his own will.

8. The Respondent/Resolution Professional filed the reply affidavit denying the averments and contentions raised by the Applicants.

9. It is submitted that the Applicants had earlier filed an application bearing IA No. 4514/2020 seeking directions to RP to change the category from financial creditor in a class to financial creditor. The said application was dismissed vide order dated 17.11.2020 of this Adjudicating Authority. The Applicants then filed a review application being R.A. No. 01/2021 which was also dismissed vide order dated 14.02.2022. The Applicants filed an appeal against the order dated 17.11.2020 to the Hon'ble NCLAT vide Company Appeal (AT)(Ins) No. 110/2022, which was also dismissed vide order dated 03.02.2022. The said order was challenged before the Hon'ble Supreme Court of India in Civil Appeal No. 2910/2022 which was also dismissed vide order dated 18.04.2022.

10. It is submitted that the Applicants have claimed to be secured creditor but have failed to show any document which creates security interest in their favour, and therefore, as per Regulation 38(1) of CIRP Regulations, in a resolution plan, priority in payment will be given to the Operational Creditors over the Financial Creditors/Applicants.

11. It is further submitted that the Resolution Plan submitted by the SRA was put to vote in 17th meeting of the CoC and it got approved with 99.91% voting share. The Applicants have a mere 0.09% and it is a matter of record that the Applicants abstained from voting on the resolution plan.

12. We have heard the submissions of Ld. Counsel appearing on behalf of both the parties and perused the records.

13. It is an undisputed that the Applicant herein filed IA- No. 4514/2020 seeking directions to RP to change the category from financial creditor in a class to financial creditor. The said application was dismissed vide order dated 17.11.2020. Further Company Appeal (AT)(Ins) No. 110/2022 was filed by the Applicants before the Hon'ble NCLAT against the order dated 17.11.2020. Hon'ble NCLAT vide order dated 03.02.2022 dismissed the said Appeals. The relevant part of order dated 03.02.2022 is reproduced below:

" 2. This Appeal has been filed against the order dated 17.11.2020 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench, rejecting the I.A 4564 and 4885/2020. The Appellant's case is that he had entered into Builder's Buyer Agreement on 19.07.2006 and has made a part payment. He submits that he approached RERA in 2018 when he was not refunded the amount from the Respondent- Corporate Debtor. The RERA has passed an order on 16.07.2019 granting decree in his favour of Rs. 7,60,047/- along with interest. He submits that in Corporate Insolvency Resolution Process proceedings, he has filed Form-CA and he was included in the category of Financial Creditor of a class i.e. 'Homebuyers'. Subsequently, he claimed that he has filed another Form-C on the basis of decree which was not accepted. He filed an Application which has been rejected. It has come on the record that Resolution Plan has already been approved by the Committee of Creditors on 30.08.2020 and the matter is pending for approval of the plan before the Adjudicating Authority.

3. We are of the view that in the facts of the present case, no error can be found out in the order of the Adjudicating Authority rejecting the Application of the Appellant which was filed for seeking leave to change his category from Financial Creditor of a class to a Financial Creditor. We do not find any error in the order of the Adjudicating Authority to entertain this Appeal.

4. However, looking to the special facts and circumstances of the present case, Respondent No.2- Resolution Applicant may consider that in implementation of plan if any further concession of benefit can be given to the Appellant. No other direction can be issued in this Appeal.

5. With these observations, the Appeal is dismissed."

14. The order dated 03.02.2022 passed by Hon'ble NCLAT was challenged before the Hon'ble Supreme Court of India in Civil Appeal No. 2910/2022. Hon'ble Supreme Court of India vide order dated 18.04.2022 dismissed Civil Appeal No. 2910/2022. The relevant part of order dated 18.04.2022 is reproduced below:

"Though learned counsel for the appellant has attempted his best to persuade but, ***we are not inclined to entertain this appeal for the simple reason that in the corporate insolvency resolution process in question, the appellants came to be placed in the category of 'financial creditor in a class' essentially because they had indeed filed 'Form-CA'*** *in terms of Regulation 8A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*

A belated attempt on the part of the appellants to assert their category as 'financial creditor' by filing 'Form-C' on 03.09.2020, after approval of the resolution plan by the Committee of Creditors, could not have been, and has rightly not been, countenanced. *The Appellate Tribunal, in all fairness, has yet expressed in the order impugned that the resolution applicant may consider, if any further concession/ benefit could be given to the appellants in implementation of the plan. The said observations appear to be fair enough, in view of the grievance of the appellants. Beyond this, no further order or observation appears requisite because, at the instance of the appellants alone, the approved resolution plan cannot be modified at this juncture.*

The ***appeal stands dismissed.***

We otherwise leave open all other relevant aspects of the matter to be pursued by the appellants in accordance with law."

15. Thus, in our humble view, once the matter has been finally decided by the Hon'ble Supreme Court of India whereby the Applicant's prayer for treating them as a Financial Creditor and direct the Resolution Professional to admit their claims as such having been rejected. The present application filed by the Applicant seeking the same reliefs is misconceived and ought to be rejected.

16. However, the Ld. Counsel for the Respondent, during the course of the arguments submitted that the Applicants are the dissenting Financial Creditor having 0.09 % who abstain from voting, will be treated in accordance with the provisions of Section 53 of the Code.

17. It is submitted that the Liquidation value of the Corporate Debtor is approximately 19 Crores out of which the CIRP cost approximately would be more than Rs. 4 Crores. Further, Greater Noida Industrial Development Authority being a secured creditor with admitted dues of Rs. 127 Crores ought to be paid in priority as per the Section 53 of the IBC. Since the dues of the secured creditor alone far exceed the available liquidation value, the entire amount would be exhausted at that stage itself. Consequently, no amount would remain available for distribution to unsecured financial creditors, including the Applicants. Therefore, in the event of Liquidation, the Applicants would receive nil under the waterfall mechanism prescribed Section 53 of the IBC. It is further submitted that the Resolution Plan provides for payment of Rs. 4 Lakhs to the Applicants which is higher than the amount payable under Section 53 of the IBC.

18. Having noted the aforesaid contentions, raised on behalf of the Resolution Professional, we are of the view that the issue raised by the Applicant to treat them as Financial Creditor has already been decided against them by the Hon'ble Supreme Court of India, and therefore, no further directions can be passed in that regard. However, the Applicants will be entitled to the treatment as provided in the resolution plan.

19. IA-2518/2025 stands **disposed of** accordingly.

Sd/-	**Sd/-**
(RAVINDRA CHATURVEDI) **MEMBER (TECHNICAL)**	**(BACHU VENKAT BALARAM DAS)** **MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH, COURT-III

IA (IBC)-4131/2025
In
CP (IB)-1481/2019

IN THE MATTER OF CP-1481/2019:

Mr. Satyajeet Panda & Anr. ..... **Financial Creditor**

Versus

M/s Ans Apartments Private Limited ..... **Corporate Debtor**

AND IN THE MATTER OF IA-4131/2025:

Mr. R.C. Jain ..... **Applicant**

Versus

Mr. Ramphal Bhardwaj,
R.P of M/s A.N.S. Apartments Pvt. Ltd. ..... **Respondent**

Order Pronounced On: 31.07.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI RAVINDRA CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant	:	Mr. Anish Gupta, Adv
For the RP	:	Mr. Abhinav Mukarjee, Sr. Adv., Mr. Mohit Nandwani, Mr. Aabhas, Mr. Om Gulati, Advs.

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This application has been by Applicant, Mr. R.C. Jain under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking the following prayers:

> ***a)*** *Allow the present application and set aside/quash the email dated 14.08.2025 passed by the Respondent /Resolution Professional rejecting the claim of the Applicant; and*

b) *Direct the Respondent / Resolution Professional to accept the claim of the Applicant and include the same in the list of approved claims;*

c) *Condone the delay if any in filing the claim before the Respondent/ Resolution Professional; and*

d) *Pass any other such order as this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the present case.*

Brief facts necessary for the present application are as follows:

2. It is submitted that the Applicant being a homebuyer, invested his life savings and hard- earned money in the purchase of Flat No. F-1002, Alstonia Apartments, Plot No.-10, Sector P11 & 2, Greater Noida.

3. It is submitted that a Letter for Allotment of residential dwelling/ flat dated 14.01.2017 was issued by the Corporate Debtor in favour of the Applicant Sh. R.C. Jain.

4. It is further submitted that pursuant to the same, the Applicant has paid the entire consideration amounting to Rs. 20,55,225/- to the Corporate Debtor. That the same can be seen from the Copy of the Receipts showing proof of payments of 20,55,225/- made by the Applicant to the Corporate Debtor.

5. It is submitted that the Applicant was also handed over the letter of offer of possession of the above mentioned flat on 10.03.2016 and that the Applicant has been in physical possession of the above mentioned flat since 2017. However, the Corporate Debtor has failed to register the flat in favour of the Applicant so far.

6. It is submitted that the Applicant was not aware of the Insolvency Proceedings, initiated against the Corporate Debtor. The Applicants came to know about it in the month of August, 2025, and thereafter, filed his claim with the Resolution Professional on 05.08.2025. The Resolution Professional rejected the claim and communicated the same vide Email dated 14.10.2025 stating that the resolution plan has already been approved by the CoC and pending before the NCLT for approval, and therefore, the claim filed vide Email dated 05.08.2025 cannot be considered at the stage and thereby rejected the claim.

7. The Applicant being aggrieved by the decision of the Resolution Professional has filed the present application seeking a direction to the Respondent/Resolution Professional to condone the delay and admit the claim.

8. The Respondent/Resolution Professional in its reply affidavit has contended that the claim of the Applicant was received by the Respondent only after approval of the resolution plan by the CoC for the second time. There is an inordinate delay of 1918 days in submitted the claim and the Applicant has not shown any sufficient cause to justify the inordinate delay in submitting the claim.

9. The Respondent/Resolution Professional further submitted that the plan approved by the CoC contains an appropriate remedy for belated claims, the Applicants can file their claims with the SRA within 30 days of approval of the resolution plan by the Adjudicating Authority which will be dealt as per the provisions of the resolution plan.

10. We have heard the submissions and considered the facts of the case and also perused the records.

11. Admittedly, the Applicant herein is a homebuyer who has filed a belated claim. The Respondent/Resolution Professional rejected the claim only on the ground of inordinate delay as the claim was submitted after approval of the resolution plan by the CoC.

12. The Resolution Plan has already been approved by this Adjudicating Authority vide order dated 09.06.2026 and the Resolution Professional has now became *functus officio.* Therefore, the SRA is directed to consider the claim of the Applicant as per the terms of the Resolution Plan and provisions of the Code.

13. IA-4131/2025 stands **disposed of.**

Sd/-	**Sd/-**
(RAVINDRA CHATURVEDI)	**(BACHU VENKAT BALARAM DAS)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**