NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

1. IA/156/2026 C.P. (IB)/203(MB)2021

IN THE MATTER OF

IDBI Bank Limited
VS
Simm Samm Hotels Private Limited
U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 17.08.2026

CORAM:
SH. VINAY GOEL
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:
For the Applicant: - Adv. Deval Anja (VC)
For the Respondent: -

ORDER

IA/156/2026: - The above **IA/156/2026** is listed for pronouncement of orders. The same is pronounced in open court vide a separate order.

Sd/-
VINAY GOEL
Member (Judicial)
//Anmol//

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - V

I.A. 156/2026

IN

C.P. NO. 203(IB)/MB/2021

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016.

The Principal Commissioner of Income Tax, Central - 1

Through: Deputy Commissioner of Income Tax

Having its address at:

Central Circle - 1(2), Mumbai Room No.906, 9th Floor, Annexe Building, Pratishtha Bhavan, M K Road, Churchgate, Mumbai – 400 020.

... Applicant

Versus

Mr. Harish Kant Kaushik

Resolution Professional of Simm Samm Hotels Private Limited

Having its address at:

Flat No. 1904, Sapphire, Regency Towers, Kavesar, Ghodbundar Rd, Thane (W), Maharashtra, Thane – 400 615.

Email: harishkant2007@gmail.com

... Respondent

IN THE MATTER OF:

IDBI Bank Limited

... Petitioner

Versus

Simm Samm Hotels Private Limited

...Respondent/Corporate Debtor

Order Pronounced On: 17.08.2026

Coram:

Sh. Vinay Goel
Member (Judicial)

Sh. Charanjeet Singh Gulati
Member (Technical)

Appearances:

For Applicant: Adv. Deval Anja (PH)

For Respondent: Adv. Himanshu Vidhani, Adv. Shloka Dikshit (PH)

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1. **I.A. 156 of 2026**

The present application has been filed by the Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 11 of the NCLT Rules, 2016 ("**Rules**") seeking, inter alia, a direction to the Resolution Professional to admit and consider the Applicant's claim of Rs. 33,19,78,764/-, filed in Form B dated 24.09.2025, and include the same in the list of creditors.

2. **Brief Facts as per the Application:**

2.1 This Tribunal vide order dated 12.04.2023, initiated Corporate Insolvency Resolution Process ("**CIRP**") against the Corporate Debtor and, vide order dated 03.11.2025 appointed the Respondent as the Resolution Professional ("**RP**") of the Corporate Debtor.

2.2 It is submitted that the Applicant is a statutory creditor of the Corporate Debtor in respect of income-tax dues aggregating to Rs. 33,19,78,764/- for Assessment Years 2009-10 to 2020-21, arising out of statutory assessments and backed by enforceable notices of demand issued under Section 156 of the Income-tax Act, 1961, followed by recovery proceedings under Section 226 thereof.

2.3 It is submitted that the existence, nature, and quantum of the said statutory dues were reflected in the books of accounts, statutory records, and audited financial statements of the Corporate Debtor, which stood vested in the custody, control, and management of the CIRP in terms of Sections 18 and 25 of the IBC.

2.4 The Applicant submitted its claim of Rs. 33,19,78,764/- to the RP in Form B dated 24.09.2025, along with the requisite supporting documents in terms of Regulation 7 of the CIRP Regulations.

2.5 The Applicant submits that, owing to administrative and procedural constraints inherent in the functioning of a large statutory organization, the public announcement dated 12.04.2023 did not come to its effective notice within the prescribed period, resulting in the delayed submission of its claim. The delay was neither deliberate nor attributable to any negligence, indifference or abandonment of the Applicant's statutory rights

2.6 It is submitted that statutory recovery proceedings and demand notices had already been issued and served upon the Corporate Debtor prior to and during the CIRP, thereby placing the Corporate Debtor on actual and constructive notice of the Applicant's claim, independent of the subsequent filing of Form B. However, the RP, vide email dated 29.09.2025, rejected the Applicant's claim solely on the ground of delay and its having been filed after approval of the resolution plan by the Committee of Creditors, without considering or adjudicating upon the claim on its merits or taking into account its statutory character and the documents supporting the same.

2.7 It is submitted that Section 30(2)(e) of the IBC prohibits approval of any Resolution Plan that contravenes existing law. A plan that ignores or extinguishes statutory tax dues is per se contrary to the Income-tax Act, 1961.

2.8 The Applicant has placed reliance on the judgment of the Hon'ble Supreme Court in ***State Tax Officer vs. Rainbow Papers Limited, Civil Appeal No. 1661 and 2568 of 2020***, to contend that a Resolution

Plan which ignores statutory dues cannot be extinguished without due consideration.

2.9 In view of the aforesaid, the Applicant has filed the present Application seeking directions against the Respondent for consideration and admission of its claim in accordance with law.

3. **<u>Reply on behalf of the Respondent</u>**

3.1 It is submitted that the erstwhile RP vide email dated 13.12.2023, intimated the Applicant regarding the initiation of CIRP of the Corporate Debtor. Thereafter, the Erstwhile RP issued a Fresh Form G on 22.12.2023 along with an addendum on 12.01.2024 which provided for the issuance of the RFRP on 10.02.2024, and the last date for submission of resolution plans as 11.03.2024.

3.2 It is submitted that the Erstwhile RP conducted the CIRP and discharged his duties in accordance with the provisions of the Code and regulations made thereunder which led to submission of five (5) resolution plans. The Resolution Plan submitted by the Consortium of Rare Asset Reconstruction Limited and Pacifica (India) Projects Private Limited was approved by the CoC during the 26th CoC Meeting, with e-voting taken place from 02.12.2024 till 09.01.2025.

3.3 It is stated that the Applicant submitted its claim to the erstwhile RP only on 25.09.2025, i.e., after issuance of the Request for Resolution Plans on 10.02.2024 and, approximately nine months after the approval of the resolution plan by the CoC on 09.01.2025. The erstwhile RP, vide email dated 29.09.2025, rejected the claim on the ground that it was filed beyond the timelines prescribed under the CIRP Regulations, particularly when the public announcement dated 14.04.2023, issued under Regulation 6 had specified 26.04.2023 as the last date for submission of claims.

3.4 It is submitted that pursuant to Regulation 12(1) of CIRP Regulations, a creditor must submit their claim on or before the last date mentioned in the Public Announcement. However, in case a creditor fails submit its claim on the last date mentioned in the Public Announcement, they may submit their claim up to the date of issue of RFRP or 90 days from the insolvency commencement date ("**ICD**"), whichever is later. In the present case, the RFRP was issued on 10.02.2024, whereas the 90 days from the ICD also ended on 11.07.2023. Accordingly, the last day for submission of claims pursuant to Regulation 12(1) of the CIRP Regulations is 10.02.2024.

3.5 Further, in relation to the claims received by the RP after Regulation 12 cut off period, the RP, under Regulation 13 (1B) of the CIRP Regulations is empowered to verify belated claims only up to seven days prior to the meeting of the CoC convened for voting on the resolution plan, which in the present case was the 26th CoC meeting held on 02.12.2024, and accordingly the last permissible date for consideration of any such claim expired on 25.11.2024, consequently, the Erstwhile RP lacked the authority in law to entertain or admit any fresh or belated claim filed thereafter, including the Applicant's claim.

3.6 It is submitted that the Resolution Plan was approved by the CoC on 09.01.2025 and the same is binding on all the stakeholders and any claims not forming part of the resolution plan stand extinguished. In this regard reliance has been placed on the following judgments:

a. *Ghanshyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd., (2021) 9 SCC 657*

b. *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Ors. (2020) 8 SCC 534*

c. *M/s. RPS Infrastructure Ltd vis Mukul Kumar & Anr. 2023 INSC 816*

3.7 Hence, it is submitted that the present Application is barred by statutory timelines prescribed under the Code and therefore, is liable to be dismissed.

4. **Additional Affidavit by the Respondent:**

4.1 By way of an additional affidavit dated 01.04.2026, the Respondent has submitted that, despite being duly apprised of the moratorium under Section 14 of the Code, the Applicant, vide email dated 26.03.2026, informed that the refunds due to the Corporate Debtor had been adjusted against its pre-CIRP tax dues, thereby being in violation of the moratorium.

5. **Analysis and Findings:**

5.1 We have heard the Counsel appearing for the parties and perused the records.

5.2 It is submitted by the Applicant that it is a statutory creditor entitled to income-tax dues of Rs. 33,19,78,764/-, and that the delay in filing its claim was unintentional and does not bar its consideration, particularly since a Resolution Plan ignoring statutory dues would contravene Section 30(2)(e) of the Code. Per contra, the Respondent submits that the Applicant's claim was filed nearly nine months after approval of the Resolution Plan by the CoC and well beyond the timelines prescribed under Regulations 12 and 13(1B) of the CIRP Regulations, and that the RP, therefore, lacked authority to entertain the belated claim, which stands extinguished upon approval of the plan.

5.3 It is not in dispute that this Tribunal, vide order dated 12.04.2023, initiated CIRP against the Corporate Debtor and as per the public announcement dated 14.04.2023, the last date for submission of claims was 26.04.2023.

5.4 The erstwhile RP intimated the Applicant regarding the CIRP vide email dated 13.12.2023, and issued a Fresh Form G on 22.12.2023 along with an addendum dated 12.01.2024, and thereafter issued the Request for Resolution Plans on 10.02.2024, wherein the last date for submission of resolution plans was 11.03.2024. It is noted that the Resolution Plan submitted by the Consortium of Rare Asset Reconstruction Limited and

Pacifica (India) Projects Private Limited was put to e-voting of the Committee of Creditors between 02.12.2024 and 09.01.2025, and stood approved by the CoC on 09.01.2025.

5.5 It is an admitted position that the Applicant submitted its claim of Rs. 33,19,78,764/- in Form B only on 24.09.2025/25.09.2025, i.e., approximately nine months after the approval of Resolution Plan by the CoC. Accordingly, the erstwhile RP rejected the claim vide email dated 29.09.2025 on the ground of delay and its having been filed after approval of the Resolution Plan by the CoC.

5.6 In this regard, it is necessary to take note of the Regulation 12 and 13(1B) of IBBI, (Insolvency Resolution Process of Corporate Persons) Regulations, 2016, which is reproduced below:

*"**Regulation 12: Submission of proof of claims.***

12. [(1) A creditor shall submit claim with proof on or before the last date mentioned in the public announcement.

Provided that a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit his claim with proof to the interim resolution professional or the resolution professional, as the case may be, ***up to the date of issue of request for resolution plans under regulation 36B or ninety days from the insolvency commencement date, whichever is later****:*

Provided further that the creditor shall provide reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement date.]

[2][(2) [3][***]]

(3) Where the creditor in [4][sub-regulation (1)] is [5][a financial creditor under regulation 8], it shall be included in the committee from the date of admission of such claim:

Provided that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.

Regulation 13: Verification of claims.

13. (1B) In the event that claims are received after the period specified under sub-regulation (1) of regulation 12 and ***up to seven days before the date of meeting of creditors for voting on the resolution plan*** *or the initiation of liquidation, as the case may be, the interim resolution professional or resolution professional, as the case may be, shall verify all such claims and categorise them as acceptable or non-acceptable for collation."*

*[**Emphasis Supplied**]*

5.7 Applying Regulation 12 to the facts of the present case, the insolvency commencement date was 12.04.2023, and ninety days therefrom expired on or about 11.07.2023. Since the RFRP was issued on 10.02.2024, which is later than the expiry of ninety days from the ICD, the last date for submission of claims stood extended, at the outermost, up to 10.02.2024. The Applicant's claim, filed on 24.09.2025, is thus delayed by over nineteen months from this extended cut-off date.

5.8 Regulation 13(1B) further confines the RP's power to verify belated claims to a period ending seven days prior to the meeting of the CoC convened for voting on the resolution plan. In the present case, such meeting (the 26^{th} CoC meeting) commenced on 02.12.2024, and the outer limit for verification of belated claims accordingly expired on 25.11.2024. The Applicant's claim, filed nearly ten months thereafter, falls well beyond this window, and the erstwhile RP was consequently without authority to verify it.

5.9 Furthermore, the CoC had already approved the Resolution Plan of the Consortium of Rare Asset Reconstruction Limited and Pacifica (India) Projects Private Limited on 09.01.2025. The Applicant's claim came to be filed nearly eight-and-a-half months after approval of the plan, at a stage when the process of collation and verification of claims for the purposes of the Resolution Plan already stood concluded.

5.10 In the circumstances, it is relevant to refer to the judgment of the Hon'ble Supreme Court in ***RPS Infrastructure Ltd. v. Mukul Kumar & Anr.,***

(2023) ibclaw.in 102 SC, relied upon by the Respondent, wherein it was held as under:

> "*21. The mere fact that the Adjudicating Authority has yet not approved the plan does not imply that the plan can go back and forth, thereby making the CIRP an endless process. This would result in the reopening of the whole issue, particularly as there may be other similar persons who may jump onto the bandwagon. As described above, in Essar Steel,* ***the Court cautioned against allowing claims after the resolution plan has been accepted by the COC****.*
>
> *22. We have thus come to the conclusion that the NCLAT's impugned judgment cannot be faulted to reopen the chapter at the behest of the appellant. We find it difficult to unleash the hydra-headed monster of undecided claims on the resolution applicant.*"
>
> [**Emphasis Supplied**]

5.11 The ratio of RPS Infrastructure squarely applies to the facts in the present case. Unlike a situation where the CoC is yet to vote upon the resolution plan and Regulation 13 continues to permit verification of belated claims, in the present case the CoC has already approved the Resolution Plan, and the window under Regulation 13(1B) for verification of belated claims had closed well before the Applicant's claim was even filed. Permitting the claim to be entertained at this stage would reopen a concluded process and would be contrary to the observations made by the Hon'ble Supreme Court against allowing claims after a resolution plan has been approved by the CoC.

5.12 The Applicant's reliance on ***State Tax Officer v. Rainbow Papers Limited*** does not assist its case. In the said case, the Hon'ble Supreme Court dealt with statutory dues that were already the subject of recovery proceedings and were otherwise identifiable from the Corporate Debtor's records. It was in that context that the Court held the timeline under

Regulation 12 to be directory. However, the Hon'ble Supreme Court in ***RPS Infrastructure Ltd. (Supra)***, specifically dealt with a belated claim filed after the Resolution Plan had been approved by the CoC. It held that the plan could not be reopened, nor could the CIRP be taken backwards, merely because the plan was still pending approval before the Adjudicating Authority, as this would defeat the time-bound nature and finality of the insolvency process.

5.13 As regards the issue raised in the Additional Affidavit concerning the adjustment of outstanding dues, the same does not pertain to admission of the claim and the said grievance can be agitated separately in accordance with law.

6. In view of the foregoing discussion, we find no merit in the present Application, and therefore, we find no ground to direct the Respondent to admit and consider the Applicant's belated claim. Accordingly, I.A. 156 of 2026 is **dismissed** and **disposed of**.

Sd/-

Vinay Goel
Member (Judicial)

Sd/-

Charanjeet Singh Gulati
Member (Technical)

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