NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)
IN
IA-71/ND/2024, IA-4583/ND/2024, IA-4406/ND/2025 AND IA-4795/ND/2025
IN
CP (IB) NO. 79/(ND)/2022

IN THE MATTER OF CP (IB) NO. 79/(ND)/2022

(Under Section 7 of IBC, 2016)

Jumbo Chemical and Allied Industries Pvt. Ltd. **... Petitioner/ Financial Creditor**

Versus

Arjun Industries Limited **... Respondent/ Corporate Debtor**

IN THE MATTER OF IA-71/ND/2024

(Under Section 30(6) of IBC, 2016)

Mr. Vikram Bajaj
Resolution Professional
Arjun Industries Limited
214, Tower A, Spezedge, Sector 47,
Gurgaon, Haryana-122018 **... Applicant**

IN THE MATTER OF IA-4583/ND/2024

(Under Section 60(5) of IBC, 2016)

Rajasthan State Industrial Development & Investment Corporation (RIICO)
Udhyog Bhawan, Tilak Mark,
Jaipur Rajasthan **... Applicant**

Versus

Vikram Bajaj
Interim Resolution Professional
214, Tower A, Spazedge Sector 47,
Gurgaon **... Respondent**

IN THE MATTER OF IA-4406/ND/2025

(Under Section 60(5) of IBC, 2016)

Jumbo Chemical & Allied
Industries Private Limited
D-42, First Floor,
Part-1 South Extension,
Delhi-1100049, India **... Applicant**

Versus

1. **Rajasthan State Industrial Development & Investment Corporation**
   Udyog Bhawan Tilak Marg,
   Jaipur-302005

2. **Mr. Vikram Bajaj**
   214, Second Floor, Tower A,
   Spaze Edge, Tower A,
   Sector 47, Gurgaon -122018 **... Respondents**

IN THE MATTER OF IA-4795/ND/2025

(Under Section 60(5) of IBC, 2016)

Ms. Mausumi Bhattacharjee
Daughter Mr. D.P. Bhattacharjee
Suspended Director of Arjun Industries Limited
C 9/9366, Vasant Kunj,
New Delhi-110078 **... Applicant/Suspended Director**

Versus

Rajasthan State Industrial Development
& Investment Corporation (RIICO)
Udhyog Bhawan, Tilak Mark,
Jaipur Rajasthan **... Respondent**

Order Delivered on: 11.08.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
SH. ATUL CHATURVEDI, HON'BLE MEMBER (T)

For the Applicant	:	Adv. Abhishek Anand, Adv. Karan Kohli, Adv. Vanshika Dhoot
For the RP	:	Sr. Adv. P Nagesh, Adv. Damini Srestha, Adv. Amar Vivek, Adv. Anant Jain, Adv. Aditya Gauri, Adv. Akshay Sharma, Adv. Aryan Chhabra, Adv. Naman Chaubey, Vikram Bajaj
For the RIICO	:	Anuj Bhandari
For the SBD	:	Mrinal Harsh Vardhan, Lakshay Agarwal, Aakash Bhatt, Rituparna Patra, Abhinav Mishra
For the RA	:	Adv. Kunal Godhwani, Adv. Devisi Bhuwalka

ORDER

PER: SHRI ASHOK KUMAR BHARDWAJ, MEMBER (J)

IA-4583/ND/2024 and IA-71/ND/2024: The prayer made in the captioned application preferred under Section 60(5) of IBC, 2016 by Rajasthan State Industrial Development and Investment Corporation (RIICO) reads thus:-

"(i) Declare that the property situated at Plot No. SP3-11(B1) and SP3-11(B2) situated at Industrial Area, Khushkhera, Rajasthan are not assets/property of the Corporate Debtor and cannot be part of resolution plan.

(ii) Set aside all action taken and proceedings initiated by the Resolution Professional qua Plot No. SP3-11(B1) and SP3-11(B2) situated at Industrial Area, Khushkhera, Rajasthan and declare all such actions and proceedings to be illegal and void ab initio.

(iii) Direct the Resolution Professional not to create any third party rights over the property situated at Plot No. SP3-11(B1) and SP3-11(B2) situated at Industrial Area, Khushkhera, Rajasthan and declare any such rights, if already created by the Resolution Professional, as illegal and void ab initio.

(iv) Direct the Resolution Professional not to interfere with the right, title, interest of the Applicant over the property situated at Plot No. SP3-11(B1) and SP3-11(B2) Industrial Area, Khushkhera, Rajasthan."

2. As can be seen from the aforementioned, the salient plea raised in the application is regarding the property situated at Plot No. SP3-11(B1) and SPC-11(B2) situated at Industrial Area, Khushkhera, Rajasthan viz. the property being not owned by the CD cannot be part of the Resolution Plan. To buttress the plea, the application espouses:-

a. The possession of the aforementioned plot was handed over to CD on 03.09.1995. Thereafter, the applicant executed the lease deed qua the plots in favour of CD on 16.10.1995. As per clause 2(n) of terms of lease deed, the CD was required to complete construction of the industry within two years from execution of the lease deed and commence commercial production within three years thereof, on the allotted plots.
b. Since, the CD failed to comply with the lease deed as well as allotment letter, the applicant issued show cause notices dated 11.03.1998, 08.01.1998 and 02.03.1998 to the CD seeking explanation as to why the lease should not be cancelled. Copies of notices could be sent also to IDBI who had extended financial facility to the CD.
c. Subsequently, show cause notices dated 24.06.2014 and 01.10.2020 were issued to the CD giving it opportunity to cure the breaches. Again, the copies of notices were sent to IDBI (Bank) for intimation.

d. The CD assailed the notices by way of Suit/Application No. 725 of 2019, titled as Arjun Industries vs. RIICO. The Suit/Application was taken up by Permanent Lok Adalat. During the pendency of application, the applicant cancelled the allotment of Plot Nos. SP3-11(B1) and SP3-11(B2) in terms of the communication dated 02.03.2021 and the lease deed executed in favour of the CD qua both the plots stood terminated. The termination letter provided that the possession of the plot shall be deemed to have been taken over by the applicant after 7 days of the date of termination. Copies of cancellation letters were sent to IDBI (Bank).

e. With cancellation of allotment and termination of lease deed, all rights and interest of the CD over the leased plots came to an end and the leased plots ceased to be asset of CD. Thus, the Plot Nos. SP3- 11 (B1) and SP3-11 (B2) cannot be treated as an asset of CD in the present process, in terms of the provisions contained in the IBC. The ownership and title of the Plot Nos. SP3- 11 (B1) and SP3-11 (B2) now vest with the lessor i.e. applicant viz. RIICO. The CD was only a lessee of the leased plots (supra) and the ownership of the Plot Nos. SP3- 11 (B1) and SP3-11 (B2) was subject to the terms and conditions of the allotment letter and lease deed only. With cancellation of allotment and termination of lease deed, the CD had no ownership right over the plot. With cancellation of allotment letter and termination of lease deed all rights qua the aforementioned plots reverted back to RIICO (applicant). Also the legal possession qua the plot stood reverted to RIICO.

f. In terms of the order dated 25.03.2021, the Permanent Lok Adalat stayed the cancellation order dated 02.03.2021. The order was challenged before Hon'ble Rajasthan High Court by way of Writ Petition No. 7756/2021. During the pendency of aforementioned Writ Petition (SBCW No. 7756/2021) the application/Suit No. 725/2019 titled as Arjun Industries vs. RIICO came to be decided by the Permanent Lok Adalat in favour of CD, in terms of the order dated 12.01.2022. In the wake, the SBCW No. 7756/2021 turned infructuous and was disposed of vide order dated 04.08.2023, by Hon'ble High Court of Rajasthan, Jaipur.

3. Assailing the order dated 12.01.2022 passed by the Permanent Lok Adalat, the applicant. Applicant preferred S.B. Civil Writ Petition No. 8311/2022 (RIICO Vs. Arjun Industries) before Hon'ble Rajasthan High Court, Jaipur, wherein Hon'ble High Court passed order dated 11.07.2022, staying the operation and effect of order dated 12.01.2022 passed by Lok Adalat till further orders. The W.P.C. is still pending before Hon'ble High Court. Nevertheless, in view of the order dated 11.07.2022, the order of cancellation (ibid) passed by RIICO stood revived and turned operative.

4. It is the case of applicant that in identical situations where the applicant had terminated the lease deed prior to initiation of CIRP proceeding and had taken over constructed possession of the lease premises Hon'ble NCLT held that the said property cannot form part of resolution process. Against the aforesaid order of Hon'ble NCLAT a Civil Appeal No. 1256/2023 was filed before Hon'ble Supreme Court which was also dismissed vide order dated 4.12.2023. A copy of order dated 4.12.2023 passed by Hon'ble Supreme

Court in Civil Appeal No. 1256/2023 is annexed as ANNEXURE A/10 to the application.

5. Thus, the law settled is that if the lease deed is terminated prior to commencement of CIRP proceedings, no right, title or interest of lessee survives over the Leased Premises and therefore such leased premises cannot form part of CIRP process stands settled.

6. On 23.03.2024, the IRP informed the applicant that CIRP proceedings had been initiated by this Tribunal vide order dated 22.02.2024 as also that public announcement had been made by him and claimed custody of the leased plots. A copy of letter dated 23.03.2024 of IRP to the Applicant is annexed as ANNEXURE A/11 to the application.

7. Vide letter dated 09.05.2024, the Applicant viz. RIICO informed the IRP that the allotment and lease deed qua the Plots had already been cancelled vide order dated 02.03.2021. Further, the interim stay order of Lok Adalat dated 12.01.2022 had been stayed by the Hon'ble High Court vide order dated 11.07.2022. With the stay of order of Lok Adalat, the termination order stands revived and therefore the Plots cannot form part for assets of CD. A copy of letter dated 09.05.2024 is annexed as ANNEXURE A/12 to the application.

8. On 28.05.2024, IRP further informed the Applicant that the Leased Plots had been made part of. A copy of letter dated 28.05.2024 of IRP to RIICO is annexed as ANNEXURE A/ 13 to the application.

9. The IRP has been making an illegal attempt to claim right of CD over the aforementioned plots.

10. All rights of the Corporate Debtor over the allotted plot came to an end on 2.3.2021 when the allotment of the plot was cancelled and the lease was terminated. The Corporate Debtor as on date has no title over the industrial plot ownership of which lies with RIICO. The said plot therefore cannot be a part of the Resolution Plan under the Code as *sine qua non* for the same i.e. an asset to fall within the definition of property or assets owned by the Corporate Debtor is not satisfied.

11. Section 18 of the IB Code clearly excludes any assets owned by the third party which are in possession of the Corporate Debtor.

12. It is a settled law that something which has been expressly excluded cannot be included. This common law principle of Expressio Unius Est Exclusio Alteriusis is squarely applicable in the present case. The dispute regarding title or ownership of the land cancellation of allotment can be raised by the Corporate Debtor only by way of filing review before the Reviewing Authority under Rule 24(2) of RIICO Disposal of land Rules, 1979 which reads as under:-

> *"24(2) Review Any person who is aggrieved with the cancellation order issued by the authority concerned is eligible to file review application before the Reviewing Authority."*

13. Unless and until a court of competent jurisdiction set aside the cancellation order, the IRP cannot claim the aforementioned plots as assets of CD.

14. The parties are ad idem that the allotment has already been cancelled and that at present the Corporate Debtor is neither the owner nor the lessee qua the industrial plots. Therefore, there is no dispute regarding the fact that the allotment of above plots has already been cancelled and that the Corporate Debtor has no right over the same.

15. Mr. P. Nagesh Ld. Sr. Counsel for the IRP did not dispute that the Plot No. SP3-11(B1) and SP3-11(B2) situated at Industrial Area, Khushkhera, Rajasthan are not the assets of CD for the present. Nevertheless, he espoused that the SRA would negotiate with applicant regarding restoration of the plot to CD.

16. It is seen from the Resolution Plan enclosed as Annexure A-1 to the IA, the CD viz. Arjun Industries Limited was incorporated in the year 1995 and was involved in the business of Grinding and Processing of Spices etc. It has been mentioned in the plan that the CD owns two industrial plots comprising area measuring 40000 sq. mtrs. each at Khushkhera Bhiwadi alongwith building and plant & machinery. Though, the plan also takes note of cancellation of allotment of the plot in favour of CD and termination of lease deed, but still, the aforementioned plots are claimed as owned by CD. Once, the allotment of the aforementioned plots in favour of CD as also the lease deed executed in its favour stood cancelled much before commencement of CIRP and in terms of the order dated 11.07.2022 passed by Hon'ble High Court staying the operation of order dated 12.01.2022, the cancellation order dated 02.03.2021 stood restored, in CIRP commenced in terms of the order dated 22.02.2024 the plots could not have been claimed as assets of the CD in any manner. Thus, mere mention of the aforementioned plots as key assets of CD vitiates the plan being violative of explanation to Section 18 of IBC, 2016. Not only this, the entire resolution strategy provided in the plan revolve around the aforementioned two plots which are not the assets of the CD. The clause 5 of the plan reads thus:-

*"**5. RESOLUTION STRATEGY***

Resolution Strategy has been formulated with the objective of ensuring sustained operations, while ensuring generation of employment andoptimal repayment of pent up liabilities with respect to period prior tothe Plan approval Date.

The salient features of the Resolution Strategy are as under:

1) *One of the plots will be used to revive the company by making required capital expenditure in this regard.*

2) *Surplus land will be subdivided by RIICO ltd. as per the provisions of RIICO land rules. RIICO land rules provide for subdivision of big plots of sick units, without any transfer charges to help sick companies in the revival. These subdivided plots will be sold in market by the Resolution Applicant, after approval of the Resolution Plan. Resolution Applicant shall apply for necessary approvals to RIICO in this regards.*

3) *Surplus P&M will be sold by the Resolution Applicant, as required.*

4) *To implement the plan, a monitoring committee will be formed. Themembers of the committee will be the Resolution professional, a nomineeof CoC and a nominee of the Resolution Applicant. The RP will be the chairman of the committee and the committee will come to an end on full payment to all creditors as per the provisions of this plan.*

5.1 Infusion of Capital

The capital of C.D. has completely eroded, due to prolonged period of stress, as C.D. has been in default towards its financial creditors, since a very long period. The present operations of C.D. have come to the stage of standstill completely. As part of resolution strategy the resolution applicant shall further infuse substantial funds to boost the capital, so that the operations can be carried in a viable manner.

5.2 Settlement and payment of dues of Financial Creditors

The huge pile up of liabilities towards the financials creditors isunsustainable. The same is also reflected in insignificant market value of C.D. in contrast to its liabilities. Accordingly, it is proposed to provide for settlement of dues of financial creditors.

As per Information Memorandum, the aggregate of claims admitted in respect of the Financial Creditors is Rs. 2878.58 crores. The resolution plan provides for an amount of Rs. 93.35 crores towards settlement of dues of the Financial Creditor (including CIRP cost), whose claim has been admitted by RP.The settlement amount shall be paid to Financial Creditors.

5.3 Settlement and payment of dues of Operational Creditors

As per Section 2(20) of the code "Operational Creditor" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred.

As per section 2(21) of the code "Operational Debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.

B. As there is no operational creditors due to the unit of the company lying closed since a very long period; so, no amount is needed to be provided for operational creditors.

5.4 Change of Management and write off of dues of Promoters/RelatedParties

Resolution Plan proposes takeover of ownership and management of

C. D. by the Resolution Applicant. The existing share capital shall be extinguished and the Resolution Applicant shall infuse fresh equity. The present directors of C.D. shall be deemed to vacate the office of director from the date of approval of the resolution plan by the Adjudicating Authority. The nominees of the Resolution Applicant shallbe deemed to assume the office of directors w.e.f. date of approval of the resolution plan by the Adjudicating Authority. Further, all the liabilities of C.D. present/contingent towards the promoters, related parties of C.D., its promoters whether in respect of loans, goods, service, directors fee, professional fee or of any other description shall stand completely and fully written off. However, the same shall not prejudice the right of C.D. to recover any amount due to C.D. from any of the promoters/shareholders/related parties etc.

5.5 Creation of employment opportunity

The resolution plan proposes creation of fresh employment opportunities on mutually agreed terms for engagement of freshemployees and workmen.

17. From the aforementioned, it is clear that the Resolution Plan is not only in violation of the provisions contained in IBC, 2016 but is not implementable also. Thus, the provisions of Section 30(2)(d) are not found complied with. Again, as can be seen from clause 6.1 of the Resolution Plan, it combines the IRP cost as also the dues payable to financial creditors. The plan with such provisions is quite absurd. The clauses 6.1 and 6.4 of the plan reads thus:-

6. **Resolution Plan**

6.1 **Cost of Resolution Plan and Means of Finance**

S. No.	Cost of Resolution Plan	Amount (Rs. in Crores)
1	Insolvency Resolution Process Cost & Settlement of dues of Financial Creditors	93.35
2	Settlement of dues of Operational Creditors a. RIICO Ltd restoration etc charges with dues	1.50
3	Capital Expenditure (Including RIICO Sub-division and Other Charges)	10.00
4	Monitoring Committee overheads	0.15
5	Revival of Operations and Working Capital	10.00
	Total	**115.00**
Means of Finance		
1	Resolution Applicant	74.00
2	Sale of Surplus Land after sub-division by RIICO Ltd. (30000 Sq. Mtrs. approx)	40.00
3	Sale of Surplus P&M	1.00
	Total	**115.00**

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6.4 <u>Insolvency Resolution Process Cost</u>

The Resolution Applicant shall pay any outstanding IRPC in priority to any other payment under the Resolution Plan from total amount of Rs 93.35 crores and the balance amount shall be paid to the financial creditor. Accordingly,

the following provision is made for discharge of any outstanding IRPC:

i. **Source of Funds** – Outstanding IRPC shall be met out of funds infused by the Resolution Applicant.

ii. **Priority of Payment** – Outstanding IRPC shall be fully paid and discharged before any payment is made to any of the Creditors as per the Resolution Plan after approval of the Resolution Plan by the Adjudicating Authority.

iii. A provision of RS 15.00 lakhs is proposed towards monitoring committee cost i.e @ Rs 1.00 lakh per month towards remuneration of monitoring committee chairman.

18. The Resolution Plan being totally founded on the asset which is not owned by the CD, is not implementable and is liable to be rejected. Ordered accordingly. The IA-71/ND/2024 stands dismissed. In the wake of the order dated 11.07.2022 passed by the Hon'ble High Court in S.B. Civil Writ Petition No. 8311/2022, the Plot No. SP3-11 (B1) & SP3-11 (B2), admeasuring 80, 745.5 sq. meter [SP3-11 (B1)-admeasuring 38973.90 sq. meter and SP3- 11 (B2) admeasuring 41771.60 sq. meter Khushkhera, Bhiwadi stand excluded from the asset of the CD. It goes without saying that the exclusion would abide by the outcome of aforementioned writ petition. Ideally, in terms of the provisions of Section 33 (1)(b) of IBC, 2016, we could have ordered liquidation of CD. However, as in terms of the provisions of sub-section 1A of Section 33 of the Code, before passing of liquidation order, this Tribunal need to consider an application made by CoC with 66% vote share for restoring the CIRP, at this stage, we refrain from doing so. **Subject to aforementioned the applications stand disposed of.**

IA-4406/ND/2025:

19. The prayer made in the captioned application reads thus:-

"i. Allow the present Application;

ii. Kindly allow the Impleadment of Applicant being a proper and necessary party in I.A. No. 4583 of 2024 for proper adjudication of dispute inter alia Plots"

20. As can be seen from the provisions contained in Section 17 and 18 of IBC, 2016, after commencement of CIRP, the IRP take control of the management of the corporate debtor as also that of its assets. In terms of the provisions of Section 13 and 15 of the Code, a public announcement regarding CIRP is made and thereafter the creditors including the one who initiates CIRP can submit their claim before RP in response to the public announcement in terms of the provisions contained in Regulation 6 of IBBI (Resolution Process for Corporate Persons) Regulations, 2016, under Regulations 7, 8, 8A, 9 and 9A of the Regulations. Thus, the applicant has no locus standi to seek impleadement in IA-4583 of 2024. **The IA is found misconceived and is accordingly rejected.**

IA-4795/ND/2025:

21. Indubitably, after commencement of CIRP, in terms of the provisions of Section 17 of IBC, 2016, the management of the affairs of CD stands vested in IRP. As per the provisions of clause (d) of sub-section (1) of Section 18 of the Code, the IRP monitor the assets of the CD and manage its operations until a Resolution Professional is appointed by the CoC. Besides, after its constitution it is CoC which take decision regarding the fate of the CD, with requisite majority/number of vote shares. Additionally, as has been provided in Section 25(2)(a) of the Code, it is RP who takes custody and control of over the assets of the CD including its business record on being so appointed. Thus, the application filed by Suspended Director seeking impleadment in IA-4583 of 2024 **is misconceived and devoid of merits and rejected. No Cost.**

Sd/-	**Sd/-**
(ATUL CHATURVEDI)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER(T)	**MEMBER (J)**