IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. 844 ND 2025
IN
C.P. IB 284 (PB) OF 2021

IN THE MATTER OF:

VIVEK KHANNA
...Applicant No. 1

RAJEEV CHANDWANI
...Applicant No. 2

NAWAL KUMBHAT
...Applicant No. 3

CHHANDITA WARKARE
...Applicant No. 4

RITESH JAIN
...Applicant No. 5

VEENU GUWALANI
...Applicant No. 6

DAVINDER KAUR
...Applicant No. 7

PARMINDERJIT SINGH
...Applicant No. 8

ANJALI BHATNAGAR
...Applicant No. 9

PRADEEP BHATNAGAR
...Applicant No. 10

VISHAL KAMRA
...Applicant No. 11

BAJAMAHAL PHANI KUMAR
...Applicant No. 12

AMIT BHATNAGAR
...Applicant No. 13

RUCHIKA BEHL
...Applicant No. 14

REKHA SAITH
...Applicant No. 15

MOHD. TUFEL ZAMA
...Applicant No. 16

MOHD. SAKIB ZAMA
...Applicant No. 17

MOHD. SUHEL ZAMA

...Applicant No. 18

NATHU RAM YADAV

...Applicant No. 19

MAHENDRA SINGH

...Applicant No. 20

Versus

MR. GAURAV KATIYAR
INTERIM RESOLUTION PROFESSIONAL
SPAZE TOWERS PVT. LTD.

...Respondent

AND IN THE MATTER OF:

VIVEK KHANNA & ORS

...Financial Creditors

Versus

SPAZE TOWERS PVT. LTD.

...Corporate Debtor

Order Pronounced on: 05.10.2026

CORAM:

SHRI MAHENDRA KHANDELWAL
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Ms. Eshna Kumar, Ms. Astha Agrawal, Advs.

For the RP : Mr. Karan Gandhi, Mr. Sikhar Tiwari, Mr. Pratham Bansal, Ms. Riya Jain, Ms. Vidhika Kapoor, Advs.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by the Applicants under Section 21 and Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") read

with Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rules, 2016") seeking the following reliefs:

A. Allow the present Application; and

B. Pass an order directing appointment of specific observer or authorised representative for each project of the Corporate Debtor; or pass an order directing appointment of specific observer or authorised representative for Project Spaze Arrow and one for other projects;

C. Pass an order directing for a details forensic audit for account statement of each financial creditor to clearly state how much was paid to the Corporate Debtor and how much has been received by each Financial Creditor,

D. Pass an order for specifically giving account statement of details for project Spaze Arrow for the financial creditor who have filed claims to state how much was paid to the Corporate Debtor and how much has been received in "assured" by each Financial Creditor,

E. Pass an order to set aside Rs. 23 crores being the amount due to original petitioners and that the same be secured by sale of the former corporate office of the Corporate Debtor

F. Pass any other as the Hon'ble Adjudicating Authority deems fit and proper in the interests of justice.

SUBMISSIONS OF THE APPLICANTS:

2. The Applicants are allottees of the project "Spaze Arrow" of Spaze Towers Private Limited ("Corporate Debtor"), which is undergoing CIRP pursuant to order dated 21.10.2024 passed in C.P. (IB) No. 284 of 2021.

3. It is stated that the CoC meetings comprise one authorised representative, the RP and three suspended directors, and that repeated representations concerning various issues remain unaddressed. The claims indicate broadly commercial and residential projects, with a substantial number of claims arising from commercial projects where, despite OC/CC, contractual liabilities remain outstanding. Claims also arise from three residential projects having RERA orders in favour of allottees for delay compensation, although the physical structures are ready.

4. Out of the 14 projects, 12 are stated to be physically complete, while Spaze Arrow remains incomplete and Spaze Delhi is stated to have ceased to form part of the Corporate Debtor's projects. The Applicants contend that Spaze Arrow allottees are particularly prejudiced by the alleged acts of the suspended directors and by the manner in which the CIRP is being conducted, as they have no effective representation in the process.

5. According to the Applicants, Spaze Arrow is fundamentally different from the other projects. The project was proposed to be developed pursuant to a 2010 collaboration agreement between the landowner and the Corporate Debtor,

but the Corporate Debtor was subsequently ousted from the project pursuant to court orders and no longer has development rights. It is further alleged that the grant of the commercial licence for the land is under investigation, only about 30% of the construction was completed between 2014 and 2017, the existing structure is in violation and requires demolition, the licence has been suspended for unpaid dues and irregularities, the building plan has lapsed, and the project RERA account has a negative balance of approximately Rs.10.5 crore.

6. The Applicants have paid 100% of the consideration to the Corporate Debtor but received nothing in return. Since Spaze Arrow is allegedly incapable of completion, their only recourse is stated to be through the insolvency estate of the Corporate Debtor.

7. It is further stated that, after losing development rights, the Corporate Debtor had earlier settled certain Spaze Arrow allottees by refunding their investments, including Mr. Om Prakash Arora, and by providing alternate units in completed projects such as Spaze Edge and Spaze Boulevard.

8. The Applicants contend that Spaze Arrow allottees cannot be placed on the same footing as claimants from other projects, where the physical structure is substantially complete and/or OC and CC have been obtained. The Spaze Arrow allottees have allegedly paid the builder without receiving any corresponding asset or benefit, whereas other claimants have either received

returns equal to or exceeding their payments or have a physical structure representing their investment.

9. The Corporate Debtor had previously undergone insolvency proceedings in 2021, which were subsequently set aside, and that the suspended directors had, since January 2022, sufficient opportunity to deal with or remove the Corporate Debtor's assets. The Applicants further allege that the corporate office has not been reflected as inventory in the minutes/list of assets and seek protection against its sale.

SUBMISSIONS OF THE RESPONDENT:

10. The RP, Mr. Narender Kumar Sharma, was appointed as the RP of the Corporate Debtor pursuant to the Order dated 22.01.2025. Pursuant to the Order dated 16.03.2026, by which the issue of maintainability was decided, the RP was directed to file reply on merits.

11. The CIRP of the Corporate Debtor was initiated under Section 7 of the Code vide Order dated 21.10.2024, pursuant to the application filed by Vivek Khanna and others, and Mr. Gaurav Katiyar was appointed as the erstwhile IRP. The said order was challenged by the suspended management before the Hon'ble NCLAT. The Hon'ble NCLAT permitted the CIRP to continue and directed constitution of the CoC. Thereafter, the issue as to whether the CIRP could be confined to the "Spaze Arrow" project came to be considered before the Hon'ble NCLAT and the Hon'ble Supreme Court. The prayer for confining

the CIRP to the Spaze Arrow project was rejected by the NCLAT vide Order dated 17.12.2024. The Hon'ble Supreme Court subsequently dismissed the appeal against the said order, agreeing with the view that the CIRP could not, at that stage, be confined to one project, while leaving other contentions open. The appeal against the CIRP commencement order was thereafter withdrawn by the suspended management on 22.08.2025.

12. The Applicants comprise 20 homebuyers out of the original 34 Financial Creditors who had initiated the CIRP and seek appointment of a separate observer/Authorised Representative ("AR") for each project, or alternatively separate representatives for Spaze Arrow and the remaining projects. According to the RP, neither the Code nor the CIRP Regulations contemplate appointment of an observer or separate AR on a project-wise basis. Regulation 4A, Regulation 8A and Regulation 16A provide for appointment and functioning of an AR for a class of creditors. In the present case, three Insolvency Professionals were proposed for appointment as AR and the creditors in the class selected Mr. Shaikh Nafis Anjum, whose appointment was confirmed by this Adjudicating Authority on 09.12.2024. The said appointment was not challenged and has attained finality.

13. The prayer for appointment of project-wise representatives is also stated to be vague and unsupported by any provision of the Code. The RP refers to Regulation 16C, introduced with effect from 03.02.2025, which provides for

appointment of a facilitator for a sub-class within a class where the prescribed conditions are satisfied, including the requisite request from creditors and direction of the CoC. The present request by 20 homebuyers, according to the RP, does not satisfy the statutory mechanism and the Applicants cannot seek to bypass the same by directly approaching the Adjudicating Authority.

14. With respect to the prayer for a forensic audit, the RP states that the issue had already been considered during the CIRP and falls within the statutory framework governing the RP and CoC. In the 2nd CoC meeting, a proposal for appointment of a forensic auditor at an estimated cost of Rs.40 lakh plus applicable expenses and GST was placed before the CoC but was not approved. The voting reported by the AR amongst the real-estate allottees was 31.67% in favour, 64.73% against and 3.60% abstaining.

15. The issue was subsequently revisited in the 4th CoC meeting, where a proposal for appointment of M/s Kansal Singla & Associates as Forensic/Transaction Auditor was placed for examination of the financial and management affairs of the Corporate Debtor for the period from 01.04.2019 to 21.10.2024. The proposal, involving a professional fee of Rs.4.75 lakh plus GST and permissible out-of-pocket expenses, was approved with 100% voting share. The final Forensic/Transaction Audit Report was received on 19.07.2025 and placed before the CoC in its 8th meeting held on 31.07.2025.

16. The forensic/transaction audit did not identify transactions attracting Sections 43, 45, 49, 50 or 66 of the Code, subject to the limitations recorded in the report. The report further recorded that the directors and related parties had infused more funds into the Corporate Debtor than they had withdrawn, resulting in a net increase of approximately Rs.18.67 crore in unsecured loans from directors and their relatives during the relevant period. It also recorded regular payments to secured and operational creditors and did not identify preferential payments or breach of the statutory waterfall. In relation to assured-return arrangements, payments of approximately Rs.1.80 crore to related parties and Rs.13.77 crore to unrelated parties in three projects, namely Spaze Delhi, Corporate Park and Tristaar, were recorded. The RP states that, if any transaction attracting Sections 43, 45, 50 or 66 is identified on further examination, appropriate action under Regulation 35A of the CIRP Regulations would be taken.

17. The Applicants have also sought examination of the claims of other homebuyers and verification of whether such creditors are genuine or speculative. According to the RP, the distinction between genuine and speculative homebuyers is relevant principally in the context of initiation of CIRP, whereas, after commencement of CIRP, the RP is required to verify and collate claims in accordance with the Code and Regulations. Reliance is placed upon the decision in Everlike Real Estate and Developers Pvt. Ltd. v. Mr. Mohit

Goyal, CA RP of Aadi Best Consortium Pvt. Ltd. & Anr., Comp. App. (AT) (Ins.) No. 978 of 2024.

18. In relation to the prayer seeking account statements showing the amounts paid by individual Financial Creditors to the Corporate Debtor and the amounts received by them, the RP states that there is no provision under the Code or CIRP Regulations requiring disclosure of individual account statements of one Financial Creditor to other homebuyers. The RP is required to collate and verify claims and prepare the list of creditors, while the entitlement of an individual Financial Creditor extends to information concerning its own claim. The Applicants, according to the RP, cannot seek disclosure of the individual financial records of other creditors merely by virtue of being members of the same class.

19. With regard to the prayer concerning Rs.23 crore allegedly due to the original petitioners and the proposed sale of the former corporate office of the Corporate Debtor, the RP states that he has no independent authority to sell the assets of the Corporate Debtor or to appropriate sale proceeds in favour of a particular group of creditors. Any sale or leasing of an asset during CIRP is required to be undertaken in accordance with the Code, the applicable Regulations and the decisions of the CoC. The Applicants cannot claim priority over other stakeholders merely by seeking that a particular asset be sold for satisfaction of their claims. The RP also refers to the discussions

before the CoC concerning the asset stated to be the Corporate Debtor's only asset, namely Tower C, Spazedge, Sector-47, Sohna Road, Gurugram, and states that the CoC had decided that the said asset would not be leased out.

20. The grievance concerning the Spaze Delhi project is stated to be misplaced. The Corporate Debtor had entered into collaboration agreements dated 04.12.2012 and 09.01.2012 in relation to the development of the project at Sector-114, Gurgaon. Those arrangements were subsequently cancelled vide Cancellation Agreement dated 13.12.2021, pursuant to which the Corporate Debtor either refunded amounts to the concerned buyers or provided alternate units/spaces in other projects. Consequently, according to the RP, the concerned project/plots do not constitute an asset or inventory of the Corporate Debtor as on date. This position was also placed before the CoC in its 6th meeting held on 19.05.2025.

21. The RP further refers to proceedings previously initiated by the Applicants before the Hon'ble High Court of Delhi in W.P.(C) No. 9094 of 2021, wherein reliefs including investigation by the SFIO, forensic audit of the Corporate Debtor, appointment of a Local Commissioner and refund of amounts paid towards units had been sought. During those proceedings, the Regional Director, Ministry of Corporate Affairs informed the Hon'ble High Court that a final inspection report under Section 208 of the Companies Act, 2013 was

being prepared on the basis of examination of the relevant records and transactions, including possible PUFE transactions.

22. Applicant No. 1 thereafter filed CM APPL. Nos. 12291/2026 and 12292/2026 seeking, inter alia, production of the inspection report and other reliefs. Those applications were withdrawn on 23.02.2026 with liberty to pursue an appropriate remedy in accordance with law. Thereafter, I.A. No. 928 of 2026 was filed before this Adjudicating Authority seeking production of the final inspection report and stay of proceedings concerning the Resolution Plan. The said Application was dismissed on 27.02.2026. The RP relies upon the fact that the Hon'ble High Court was already seized of the matter and had not stayed the CIRP or consideration of the Resolution Plan, and that the CIRP is a time-bound process.

23. The RP accordingly states that the Applicants have pursued substantially similar reliefs before different fora without disclosing the complete history of the earlier proceedings. Reliance is placed upon the principles laid down in S.P. Chengalvaraya Naidu v. Jagannath, (1994) 1 SCC 1, Prestige Lights Ltd. v. State Bank of India and K.D. Sharma v. Steel Authority of India Ltd. & Ors. concerning the obligation of a litigant to approach the court with clean hands and make full disclosure of material facts.

24. According to the RP, the Applicants, being only a subset of the Financial Creditors forming part of a class, cannot bypass the statutory mechanism

under the Code and seek to exercise supervisory control over the CIRP. The matters relating to appointment of the AR/facilitator, conduct of forensic or transaction audit, verification of claims and examination of transactions are governed by the Code, the CIRP Regulations and the decisions of the CoC. The forensic audit had already been considered, approved and completed, and the final report did not identify transactions attracting Sections 43, 45, 49, 50 or 66 of the Code.

ANALYSIS AND FINDINGS:

25. We have considered the averments made in the Application, the submissions advanced by the Applicants and the Resolution Professional, and the documents placed on record.

26. At the outset, it is material to note that the CIRP of the Corporate Debtor was initiated pursuant to the order dated 21.10.2024. The attempt of the Applicants to treat Project Spaze Arrow as a separate insolvency estate has already been considered in the proceedings arising from the commencement of CIRP. The Hon'ble NCLAT, by order dated 17.12.2024, declined to confine the CIRP to Project Spaze Arrow, and the Hon'ble Supreme Court thereafter dismissed the appeal against the said order on 02.01.2025. Thus, for the purposes of the present CIRP, the Corporate Debtor is undergoing one insolvency resolution process.

27. The first prayer is for appointment of a separate observer or Authorised Representative for each project, or alternatively one representative for Project Spaze Arrow and another for the remaining projects.

28. The statutory mechanism under Regulations 4A, 8A and 16A of the CIRP Regulations provides for representation of a class of creditors through an Authorised Representative.

29. In the present case, the creditors forming the relevant class had already participated in the prescribed process for selection of the Authorised Representative, and Mr. Shaikh Nafis Anjum was confirmed as the Authorised Representative by this Adjudicating Authority vide order dated 09.12.2024. The Applicants have not demonstrated any statutory infirmity in the said appointment. Nor has any material been placed to establish that the existing Authorised Representative has ceased to discharge his statutory functions in accordance with the Code.

30. The subsequent introduction of Regulation 16C, providing for a facilitator for a sub-class within a class subject to the conditions prescribed therein, also does not confer an independent right upon a group of creditors to seek direct appointment of a project-wise representative from this Adjudicating Authority without following the statutory mechanism. The Applicants have not demonstrated compliance with the conditions contemplated under the said

provision. Accordingly, the prayer for appointment of a separate observer/Authorised Representative cannot be granted.

31. The second principal issue concerns the demand for a detailed forensic audit identifying, creditor-wise, the amounts paid to the Corporate Debtor and the amounts received by each Financial Creditor, including assured-return payments. In this regard, the record demonstrates that the issue of forensic/transaction audit was not ignored during the CIRP. A proposal for appointment of a forensic auditor was considered in the 2nd CoC meeting but did not receive the requisite approval. The matter was subsequently reconsidered in the 4th CoC meeting, wherein the appointment of M/s Kansal Singla & Associates as Forensic/Transaction Auditor was approved with 100% voting share.

32. Pursuant thereto, the Forensic/Transaction Audit Report was received on 19.07.2025 and was placed before the CoC in its 8th meeting held on 31.07.2025. The Applicants have sought a further and more extensive exercise on the premise that the audit ought to determine, creditor-wise, every amount paid to the Corporate Debtor and every amount received by the concerned Financial Creditor. However, a forensic or transaction audit cannot be directed repeatedly merely because the Applicants seek a different level of granularity in the investigation. The relevant consideration is whether the statutory process has been undertaken and whether the material placed

before the Tribunal establishes circumstances warranting a further investigation. In the present case, the Forensic/Transaction Audit Report examined the financial and management affairs of the Corporate Debtor for the period from 01.04.2019 to 21.10.2024. As placed on record, the report did not identify transactions attracting Sections 43, 45, 49, 50 or 66 of the Code, subject to the limitations recorded therein.

33. We also take note of the Applicants' contention that Project Spaze Arrow stands on a different footing from other projects and that its allottees have allegedly paid the entire consideration without receiving possession or any corresponding asset. The difficulties faced by the allottees of Spaze Arrow may undoubtedly be substantial. However, the existence of project-specific difficulties does not, by itself, warrant creation of a separate representative structure or separate accounting mechanism contrary to the statutory framework of the CIRP.

34. The statutory obligation of the Resolution Professional is to receive, collate and verify claims in accordance with the Code and the Regulations and to maintain the relevant records for the purposes of the CIRP. The fact that the Applicants are themselves Financial Creditors does not confer upon them a right to conduct an independent audit of the individual financial affairs of every other creditor. If a specific claim is alleged to be false, inflated or otherwise ineligible, the same has to be established through cogent material

and addressed in accordance with the statutory framework. A general demand for disclosure of all individual account statements cannot be granted merely on the basis of suspicion.

35. The Applicants have also relied upon the allegations concerning the former corporate office of the Corporate Debtor and have sought that Rs.23 crore stated to be due to the original petitioners be secured by sale of the said property. This prayer cannot be granted. The claim of a Financial Creditor against the Corporate Debtor does not confer upon such creditor an exclusive right to a particular asset of the Corporate Debtor, unless a valid security interest or other statutory entitlement to such asset is established.

36. More importantly, the Adjudicating Authority cannot direct the Resolution Professional to sell a particular asset and earmark the sale proceeds exclusively for a particular group of creditors merely because those creditors claim that a specified amount is due to them. The assets of the Corporate Debtor form part of the insolvency estate and are required to be dealt with in accordance with the Code and the resolution process.

37. Attention is drawn to the previous proceedings concerning the affairs of the Corporate Debtor. The Applicants had earlier approached the Hon'ble High Court of Delhi in W.P.(C) No. 9094 of 2021, wherein, inter alia, reliefs relating to investigation, forensic audit and refund of amounts were sought. Subsequent applications were also filed before the Hon'ble High Court and

before this Adjudicating Authority concerning the inspection report and the continuation of the CIRP.

38. The mere fact that an inspection was undertaken, or that an inspection report was under preparation, does not, by itself, establish the existence of fraud, siphoning of funds or other wrongdoing on the part of the Corporate Debtor or its management. Any adverse conclusion arising from such inspection would have to be considered on the basis of the final report and the findings actually recorded therein, and cannot be presumed merely from the factum of inspection. However, if any specific transaction subsequently comes to light which attracts the provisions of the Code, the Resolution Professional remains bound to take such action as may be permissible under the statutory framework.

39. Accordingly, none of the reliefs sought in the present Application warrants interference by this Adjudicating Authority. The Applicants have failed to establish any statutory basis for a separate representative mechanism, a fresh forensic audit, disclosure of individual accounts of other creditors, or preferential protection from the sale of the assets of the Corporate Debtor.

40. Accordingly, the application bearing I.A. 844 ND 2025 is **dismissed**.

-SD/-

ATUL CHATURVEDI
MEMBER (TECHNICAL)

-SD/-

MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)