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

I.A.(I.B.C)/1221(CH)2025
In
CP (IB) No. 248/Chd/Chd/2019
(Admitted)

(Application under Section 60(5) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations made thereunder)

<u>IN THE MATTER OF I.A(IBC) No. 1221 of 2025:</u>

Rajeev Bhambri,
Resolution Professional of Future Colonizers & Construction Limited
Office at: SCO 9, 2nd Floor, Jandu Tower, Miller Ganj,
Ludhiana -141003
Email id: futurecirp@gmail.com

...Applicant

Vs.

Mr. Mohit Chawla
Resolution Professional ("RP")
Chandigarh Overseas Private Limited
Address: SCO 26, Shri Balaji Complex, Old Ambala Road, Himmatgarh, Dhakauli, Sub Tehsil Zirakpur, Sahibzada Ajit Singh Nagar,
Punjab ,140603
Reg. No. IBBI/IPA-001/IP-P00524/2017-2018/10949
Email- irpcpl@gmail.com

...Respondent

<u>IN THE MAIN MATTER OF:</u>

Kone Elevator India Private Limited

... Petitioner/Operational Creditor

Vs.

Chandigarh Overseas Private Limited

...Corporate Debtor

Order delivered on: 10.07.2026

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

Present:

For the Applicant: Mr. Karanveer Jindal, Advocate

For the RP/Respondent: Mr. Atul V Sood, Advocate
Mr. Rohan Sood, Advocate

ORDER

The present Application has been filed by Mr. Rajeev Bhambri, Resolution Professional of Future Colonizers & Construction Limited (hereinafter referred to as **the Applicant**) under section 60(5) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016(hereinafter referred to as **the Code**) for, inter alia, seeking to direct the Respondent to provide copy of the complete resolution plan as approved by the CoC of the Corporate Debtor and pending before this Hon'ble Tribunal for final approval/sanction, or, **in the Alternative,** direct the Respondent to provide such extracts from the Resolution Plan, as approved by the CoC of the Corporate Debtor, which specifically deals with the claim of the Applicant herein.

2. **The relevant facts giving rise to the present Application as submitted by the Applicant are summarized as under:**

(a) The Corporate Debtor, namely Chandigarh Overseas Private Limited, was admitted into CIRP vide order dated 27.02.2023 passed by this Tribunal, whereby Mr. Arvind Kumar was appointed as IRP and subsequently confirmed as RP. The Applicant Company, namely Future Colonizers & Construction Limited, was also admitted into CIRP vide order dated 13.10.2022 passed in CP (IB) No. 49/Chd/Pb/2019 and Mr. Rajeev Bhambri was appointed as IRP and later confirmed as RP.

(b) The Applicant submitted that it had entered into a Joint Venture Agreement dated 08.01.2013 with the Corporate Debtor for development of the project, wherein the Applicant was required to invest Rs. 40 Crores. In consideration thereof, the Applicant was granted exclusive rights in respect of 55 flats and 12 penthouses in Towers D-1 to D-12. It is further stated that the Corporate Debtor acknowledged receipt of Rs. 19.17 Crores invested by the Applicant vide receipt dated 28.01.2014.

(c) The Applicant submitted that the said investment constituted a financial debt having commercial effect of borrowing and time value of money. Consequently, the Applicant submitted its claim in Form-C before the RP on 13.03.2023 for an amount of Rs. 135,94,96,779/- as a Financial Creditor. The Applicant alleges that after more than seven months, the Respondent vide e-mail dated 18.10.2023 partially rejected the claim without assigning reasons and wrongly treated the claim as operational debt and also declaring the Applicant as a related party. The Applicant thereafter sought reconsideration vide e-mail dated 05.12.2023, however no response was received. Hence, the Applicant filed IA No. 1148 of 2024 seeking admission of its claim as financial debt.

(d) The Applicant further submitted that even admission of Rs. 19.17 Crores as financial debt would entitle it to approximately 7.5% voting share in the CoC, thereby making it the largest single financial creditor. The Applicant alleges that it has been intentionally kept outside the CoC through wrongful classification of its claim.

(e) The Applicant further submitted that it is itself undergoing CIRP and a Resolution Plan in its own CIRP has already been approved by its CoC. However, objections have been raised therein on the ground that the Applicant has a claim of Rs. 135.94 Crores against the Corporate Debtor in the present case. Therefore, according to the Applicant, disclosure of the Resolution Plan of the Corporate Debtor is necessary to ascertain the treatment and status of its claim. The Applicant stated that it requested the Respondent vide e-mail dated 26.05.2025 to provide a copy of the approved Resolution Plan, but no response was furnished. It is contended that as a financial creditor, the Applicant has a right to know the treatment of its claim under the Resolution Plan and denial thereof would cause irreparable prejudice.

(f) The Applicant further submitted that since the Resolution Plan has already been approved by the CoC and is pending approval before this Tribunal, no prejudice would be caused to any stakeholder by furnishing a copy of the Resolution Plan. Reliance has also been placed upon the order dated 13.04.2023 passed by the NCLT, Mumbai in Oceanic Technical Services vs. Ajay Joshi, RP of Indian Steel Corporation Limited, wherein disclosure of relevant portions of the Resolution Plan was directed.

3. **The Respondent/RP has filed the short written submissions which are as follows:**

(a) The Respondent submitted that the Applicant's claim has been admitted as " Other Creditor- Related Party", which was challenged by it by way of IA No.

1148/2024 for admission of claim of the Applicant as Financial Debt (unrelated). This Tribunal has decided IA 1148/24 vide order dated 13.03.2026 and has upheld that the Applicant was a "related party". This Tribunal observed the following while dismissing the Application of the Applicant:

"7. In view of the above, we hold that the impugned transaction/ investment under JVA does not give rise to a 'Financial Debt' and the Applicant accordingly does not become a 'Financial Creditor'. Further, the Applicant falls within the definition of 'Related party'. The action of the RP in not accepting the appellant as a Financial creditor and treating the appellant as a 'related party' and rejecting the claim of Rs.135,94,96,779/- after due verification, is in accordance with the provisions of law. The RP is duty bound to accept the claims only after their verification with the help of supporting documents."

(b) The Respondent submitted that as per settled law, an Operational Creditor/Other Creditor/Other Creditor (Related Party) is not entitled to copy/extract of the Resolution Plan. The Respondent placed reliance upon the judgement of Hon'ble NCLAT of ***Pakhi Infra & Ors. v. Jabalpur MSW Pvt. Ltd.*****, reported as** ***(2024) ibclaw.in 771 NCLAT*****,** wherein the Hon'ble NCLAT has held that until approval of the Resolution Plan by the Adjudicating Authority, no extract or part of the resolution plan can be supplied to the applicant. However, the Tribunal observed that an operational creditor, being part of the CIRP, has the right to file objections to the Resolution Plan before the Adjudicating Authority, which shall be considered in accordance with law. Accordingly, the appeal was dismissed. Further reliance was placed on the judgement of **SBC Minerals Pvt. Ltd. V. Bhuvan Madan (RP) (2026)** ibclaw.in 812 wherein it is held that:

"11. In view of the nature of reliefs sought, we are of the considered opinion that it is a settled position of law that a Resolution Plan constitutes a confidential document until its approval by the Adjudicating Authority, the circulation and disclosure of which are strictly

regulated under the statutory framework of the Code and the Regulations framed thereunder.

12. In Jet Airways (supra), the Hon'ble NCLAT, upon a conjoint reading of Section 24 of the Code and Regulation 21 of the CIRP Regulations, has categorically held that only the "participants" in the meetings of the Committee of Creditors are entitled to receive copies of the Resolution Plan and related documents. In the present case, the Applicant, being an Operational Creditor, is neither a member nor a participant in the CoC meetings within the meaning of the aforesaid provisions. Consequently, the Applicant cannot claim an independent or enforceable right to access the Resolution Plan during the pendency of its consideration under Section 31 of the Code. The statutory scheme does not envisage disclosure of the Resolution Plan to individual Operational Creditors at the pre-approval stage, and any such direction would run contrary to the confidentiality regime embedded in the insolvency framework.

....

14. Keeping in view the above background, including the fact that the claim of the Applicant has been collated by the Resolution Professional and stands admitted as well as reflects the same at SL. No. 2521 in the List of Creditors as on 14.01.2024, no grounds for interference by this Adjudicating Authority can be made out.

15. Hence, the present application, I.A. No. 113 of 2026, stands dismissed in light of the aforesaid observations."

(c) The Respondent submitted that since the Applicant is admittedly an "other creditor (related party)" and as mentioned hereinabove, he is not entitled to a copy of the Plan/extract, the application deserves to be dismissed.

Analysis and Findings

5. We have considered the rival submissions and perused the record and have also gone through the provisions of the Code and the rules and regulations made thereunder.

6. The present Application has been filed by the Applicant seeking a direction to the Resolution Professional of the Corporate Debtor to furnish a copy of the complete Resolution Plan approved by the Committee of Creditors or, alternatively, extracts thereof dealing with the Applicant's claim.

7. It is pertinent to note that the status of the Applicant in the CIRP of the Corporate Debtor is no longer res integra. The Applicant had earlier challenged the classification of its claim by filing IA No. 1148 of 2024 seeking recognition of its claim as a Financial Debt and consequent treatment as a Financial Creditor. This Tribunal, vide detailed Order dated 13.03.2026, rejected the said contention and categorically held that the transaction under the Joint Venture Agreement did not constitute a financial debt and that the Applicant was rightly classified as a "Related Party". The Tribunal further upheld the action of the Resolution Professional in rejecting the claim of Rs.135,94,96,779/- as a financial debt after due verification. The aforesaid finding has attained finality for the purpose of the present proceedings and therefore the Applicant cannot seek rights and privileges which are available exclusively to Financial Creditors or members/participants of the meetings of Committee of Creditors.

8. The main contention of the Applicant is that disclosure of the Resolution Plan is necessary to ascertain the treatment of its claim and to facilitate the CIRP of the Applicant itself. However, such a contention cannot override the statutory scheme governing confidentiality of Resolution Plans under the Code and the CIRP Regulations. The Code contemplates a carefully regulated mechanism for circulation of Resolution Plans, restricting access to members and participants of

the Committee of Creditors in accordance with the provisions of Section 24 of the Code and the applicable regulations. The Applicant admittedly is neither a member of the CoC nor a participant entitled to receive copies of the Resolution Plan.

9. The Hon'ble NCLAT in ***Pakhi Infra & Ors. v. Jabalpur MSW Pvt. Ltd.* reported as *(2024) ibclaw.in 771 NCLAT*** has categorically held that until approval of the Resolution Plan by the Adjudicating Authority, no copy, extract or part of the Resolution Plan can be supplied to an applicant who is not entitled to receive the same under the statutory framework. The Hon'ble Appellate Tribunal further observed that such creditors may raise objections before the Adjudicating Authority at the appropriate stage, but cannot claim disclosure of the Resolution Plan during its pendency.

10. The position is further reinforced by the very recent pronouncement of the coordinate NCLT Allahabad Bench in ***SBC Minerals Pvt. Ltd. v. Bhuvan Madan (RP) (2026) ibclaw.in 812 NCLT***, decided on 17.03.2026 wherein, the Adjudicating Authority reiterated that a Resolution Plan remains a confidential document until approval under Section 31 of the Code and that Operational Creditors are not vested with any independent or enforceable right to seek access to the Resolution Plan at the pre-approval stage. The Tribunal specifically held that disclosure of the Resolution Plan to creditors who are not participants in the CoC would be contrary to the confidentiality regime embedded in the insolvency framework.

11. The Applicant has sought to distinguish its case on the ground that its claim is substantial and that it is itself undergoing CIRP. In our considered view, neither the quantum of the claim nor the pendency of CIRP proceedings against the Applicant creates any statutory entitlement to seek disclosure of the Resolution Plan. The rights of a creditor in a CIRP are determined by the provisions of the Code and not by the magnitude of the claim asserted. Once the Applicant stands classified as an "Other Creditor – Related Party", it cannot claim a right superior to that conferred by law.

12. The reliance placed by the Applicant on the decision in ***Oceanic Technical Services v. Ajay Joshi, RP of Indian Steel Corporation Limited****, decided on 13.04.2023* is misplaced. The facts of the said case are distinguishable and cannot override the subsequent and specific pronouncements governing confidentiality of Resolution Plans. In *Oceanic*, the Adjudicating Authority did not recognise any general right of a creditor to obtain the Resolution Plan prior to its approval under Section 31 of the Code. On the contrary, the Tribunal declined to direct disclosure of the complete Resolution Plan, recognising the confidentiality attached to a resolution plan pending approval, and only directed disclosure of the limited portion concerning the treatment of the applicant's admitted operational debt in the peculiar facts of that case. The applicant was an admitted Operational Creditor seeking only limited disclosure to understand the treatment of its admitted claim. The present case stands on an entirely different footing. Here, the Applicant has already been held, by a final order of this Tribunal dated 13.03.2026, to be a "Related Party" and not a Financial Creditor, and consequently cannot claim rights available either to members or participants of the Committee of Creditors.

13. More importantly, the legal position prevailing in *Oceanic* has since been authoritatively clarified by the Hon'ble NCLAT in ***Pakhi Infra & Ors. v. Jabalpur MSW Pvt. Ltd., Company Appeal (AT) (Ins.) No. 2175 of 2024***, decided on 22.11.2024. In paragraph 4 of its order, the Hon'ble NCLAT categorically held: *"Till the Resolution Plan is approved by the Adjudicating Authority no part of the Resolution Plan can be given to the Appellant on his application."* The Appellate Tribunal further observed that, although an Operational Creditor forms part of the CIRP and is entitled to file objections to the Resolution Plan at the stage of its consideration by the Adjudicating Authority, such entitlement does not translate into a right to seek disclosure of the Resolution Plan or any extract thereof before approval. The appeal was accordingly dismissed. This subsequent pronouncement of the Hon'ble NCLAT, being binding on all Adjudicating Authorities, governs the issue and leaves no scope for directing disclosure of the Resolution Plan or any extract thereof prior to its approval under Section 31 of the Code. In any event, the said decision cannot be read as laying down a general proposition that every creditor is entitled to obtain a copy or extracts of a Resolution Plan prior to its approval by the Adjudicating Authority.

14. It is also relevant to note that the Resolution Plan in the present case is stated to be pending consideration under Section 31 of the Code. Any direction for disclosure of the Resolution Plan or extracts thereof at this stage would run contrary to the settled principles governing confidentiality of the insolvency resolution process and may prejudice the sanctity of the process envisaged under the Code.

CONCLUSION:

15. In view of the foregoing discussion, this Tribunal is of the considered view that the Applicant, being an "Other Creditor – Related Party", possesses no statutory or legal right to seek a copy of the Resolution Plan or extracts thereof prior to its approval by the Adjudicating Authority. No ground is made out for issuance of any direction to the Resolution Professional in this regard.

16. In the result, **I.A. (I.B.C) No. 1221 of 2025** is hereby **dismissed** and **disposed of.**

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

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

I.A.(I.B.C)/1174(CH)2025
in
CP (IB) No. 248/Chd/Chd/2019
(Admitted)

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

I.A(IBC) No. 1174 of 2025:
Tejinder Pal Setia
Address: Ground Floor, Guru Harkrishan Nagar,
Paschim Vihar, New Delhi-10087

...Applicant

Vs.

Mr. Mohit Chawla
Resolution Professional ("RP")
Chandigarh Overseas Private Limited
Address: SCO 26, Shri Balaji Complex, Old Ambala Road, Himmatgarh,
Dhakauli, Sub Tehsil Zirakpur, Sahibzada Ajit Singh Nagar,
Punjab ,140603
Reg. No. IBBI/IPA-001/IP-P00524/2017-2018/10949
Email- irpcpl@gmail.com **...Respondent**

IN THE MAIN MATTER OF CP (IB) No. 248/Chd/Chd/2019:

Kone Elevator India Private Limited

... Petitioner/Operational Creditor

Vs.

Chandigarh Overseas Private Limited

...Corporate Debtor

Order delivered on: 10.07.2026

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

Present:

For the Applicant: Mr. Prakhar Mittal, Advocate

For the RP/Respondent: Mr. Atul V Sood, Advocate
Mr. Rohan Sood, Advocate

ORDER

The present Application has been filed by Mr. Tejinderpal Setia, a member of Suspended Board of the Corporate Debtor (hereinafter referred to as **the Applicant**) under section 60(5) of the Insolvency and Bankruptcy Code (hereinafter referred to as **the Code**) read with Rule 11 of National Company Law Tribunal Rules, 2016 seeking the following prayers:

(a) Direct the Resolution Professional to provide a copy of the Resolution Plan(s) to the Applicant;
(b) Permit the Applicant to raise objections to the Resolution Plan and IA (IBC)(Plan) No. 6/2024;
(c) During the pendency of the present Application, voting upon Resolution Plan(s) be stayed;

BRIEF FACTS

2. The averments made by the Applicant in the Application are summarised hereunder:

(a) The Applicant is a member of the Suspended Board of the Corporate Debtor and is seeking a copy of the Resolution Plan(s) submitted by Prospective Resolution Applicants in the corporate insolvency resolution process of the Corporate Debtor - M/s Chandigarh Overseas Pvt. Ltd.

(b) The Applicant has challenged various actions of the Resolution Professional in the Corporate Insolvency Resolution Process of M/s Chandigarh Overseas Pvt. Ltd., which are pending adjudication before this Tribunal. In the meanwhile a resolution plan of M/s Credo Assets Pvt. Ltd. & Anil Prakash Aggarwal (Joint Applicants) has been voted upon and the Resolution Professional has filed an Interlocutory Application bearing IA (IBC)(Plan) No. 6/2024 before this Tribunal seeking approval of the Resolution Plan.

(c) During the pendency of the above-stated, the IBBI took cognizance of the acts/ nuisance and modus operandi of the Respondent No. 1 in forming CoC with inflated claims in corporate insolvency resolution process of M/s Richa Industries Ltd. and passed an Order dated 11.06.2025 thereby, suspending the registration of the Respondent. The applicant herein, also has similar grievances against the Resolution Professional however, vide the present Application the Applicant is only seeking a copy of the Resolution Plan(s) be provided to the applicant, being a member of the suspended management, as it is proper and necessary party to the Plan approval application.

(d) Reliance is placed on the judgment of the Hon'ble Supreme Court in a case titled as **"Vijay Kumar Jain v. Standard Charted Bank & Ors., (2019) 20 SCC 455"** wherein, it was observed as follows-

> *"12. ..Further, under Regulation 37(1)(f), a resolution plan may provide for reduction in the amount payable to the creditors, which again vitally impacts the rights of a guarantor. Last but not the least, a resolution plan which has been approved or rejected by an order of the adjudicating authority, has to be sent to "participants" which would include members of the erstwhile Board of Directors vide Regulation 39(5) of the CIRP Regulations. Obviously, such copy can only be sent to participants because they are vitally interested in the outcome of*

such resolution plan, and may, as persons aggrieved, file an appeal from the adjudicating authority's order to the Appellate Tribunal under Section 61 of the Code. Quite apart from this, Section 60(5)(c) is also very wide, and a member of the erstwhile Board of Directors also has an independent right to approach the adjudicating authority, which must then hear such person before it is satisfied that such resolution plan can pass muster under Section 31 of the Code...

(e) The Resolution Professional in blatant regard to the law laid down by the Hon'ble Supreme Court has failed to provide a copy of the Resolution Plan to the members of the suspended Board of Directors. There is grave urgency in the matter in as much as the Application for approval of Resolution Plan is listed before this Tribunal on 21.07.2025, and the relief in the present Application ought to be granted prior to approval of the resolution plan otherwise, the present Application would be rendered infructuous. The captioned Application is bonafide and made in the interest of justice.

3. The Respondent/RP has filed the Short Written Submissions which are as follows:

(a) The Applicant is a member of the suspended board of directors of the Corporate Debtor ("CD") and is seeking a copy of the Resolution Plan ("Plan") through this IA. In the 13th CoC meeting held on 05.03.2024, the terms of Plans received by the RP were discussed by the CoC as agenda item 2. It is pertinent to mention that the Plan submitted by the Successful Resolution Applicant ("SRA"). A copy of the minutes of the 13th CoC meeting is annexed as **ANNEXURE A-22** in IA(Plan) No. 6/2024. Further, in the 15th CoC meeting held on 19.03.2024, the Plan of the SRA was approved by the CoC by 99.21% voting in favour of the Plan.

A copy of the minutes of the 15th CoC meeting is annexed as **ANNEXURE A-24** in IA(Plan) No. 6/2024.

(b) The Applicant Mr. Tejinder Setia attended both the 13th as well as the 15th CoC meetings where the Plan was discussed and approved. The Applicant's attendance is marked in the respective minutes of the meeting of both the meetings. The Applicant filed this Application on 19.07.2025 i.e. 14 months post the 15th CoC meeting where the Plan was approved. It is submitted that this Application has been filed to derail and delay the CIRP proceedings of the CD as the Applicant did not ask for a copy of the Plan for a period of 14 months despite being present at the meeting where the Plan was approved.

(c) The Applicant being a member of the suspended board of directors of the CD has filed various frivolous Applications in the present matter with an intention to disrupt and derail the resolution process. Many of these Applications have been dismissed by this Tribunal. This Tribunal is also aware about the conduct of the Applicant and has noted the same in Order dated 11.02.2025 in IA 700/2024. The relevant extract of the order is being reproduced below for ready reference:

"Tajinder Pal Setia has neither provided these title deeds nor put up the documents in support of the said transaction having borrowed amount of Rs.5 crore, and its disbursement, rather moved an application i.e. IA No. 253/2025 for withdrawal of the said affidavit that was taken on record vide Diary No. 00792/4 dated 28.01.2025 and this conduct of respondent Mr. Tajinder Pal Setia is causing unnecessary delay in the approval of resolution plan which is pending before this Bench vide IA No.6/2024 under Section 30 of the Code. Prima facie it seems that Mr. Tajinder Pal Setia is trying to side-track the issue by filing such frivolous application for withdrawal of the false affidavit, which cannot be allowed as the affidavit is given and deposed on oath, before a Court of Law."

(d) While dismissing the Company Appeal (AT) (Insolvency) No. 1348/25 preferred by the Applicant against the order dated 16.05.2025 of this Hon'ble Tribunal in I.A. 151/2025, the Hon'ble NCLAT also noted the mala fide conduct of the Applicant in its order dated 10.03.2026. The relevant extract of the order is being reproduced below for ready reference:

"11. … The present appeal therefore seems to be a clever ploy on the part of the suspended management to indirectly re-agitate the issue of admission and exclusion of claims by the RP at a stage when the resolution plan has already been approved by CoC with overwhelming majority. We are persuaded to believe that the suspended management is indulging in all possible machinations to somehow manage to derail the resolution process which is at an advanced stage. We are therefore of the considered view that the Adjudicating Authority had not committed any infirmity in not showing any indulgence to the Baker Tilly transaction audit report prompted by the suspended management of the Corporate Debtor."

(e) The present Application has been filed after a delay of 14 months, which itself demonstrates that the Applicant is once again attempting to derail and obstruct the resolution process, as has been consistently observed and recorded by this Tribunal as well as the Hon'ble NCLAT and deserves to be dismissed with heavy costs.

ANALYSIS AND FINDINGS

4. We have considered the rival submissions and perused the record and have also gone through the provisions of the Code and the rules and regulations made thereunder.

5. The following issue needs to be considered in the present Applicant that Whether the Applicant, a member of the suspended board of the Corporate Debtor, is entitled under Section 60(5) of the Code to seek:-

(i) supply of copy of the Resolution Plan,

(ii) to raise objections thereto, and

(iii) stay of voting/approval process at a belated stage after approval by the CoC, particularly when the Application is filed after an unexplained delay of approximately 14 months.

6. At the outset, it is established in ***Vijay Kumar Jain v. Standard Charted Bank & Ors., (2019) 20 SCC 455*** that members of the suspended board of directors are "participants" in the CIRP and are entitled to receive a copy of the Resolution Plan to the limited extent that such participation is necessary for effective representation of their interests. However, this right is neither absolute nor unqualified, and is circumscribed by the statutory scheme of the Code, the stage of proceedings, and the overarching objective of timely resolution under the Code.

7. In the present case, the facts clearly reveal that the Resolution Plan has already been placed before the Committee of Creditors (CoC) and the CoC has approved the Resolution Plan with an overwhelming majority of 99.21% in its 15th meeting held on 19.03.2024. The Applicant attended both the 13th and 15th CoC meetings wherein the Resolution Plan was discussed and approved and the attendance of the Applicant has been duly recorded in the minutes of 13th and 15th CoC meetings. Despite such participation and knowledge, no request for supply of the Resolution Plan was made for nearly 14 months, and the present Application has been filed only on 19.07.2025, at a highly belated stage when the Resolution Plan approval proceedings are already listed for final consideration.

8. This unexplained and inordinate delay is not a mere procedural irregularity but is indicative of a pattern of conduct already noticed by this Tribunal and the Hon'ble NCLAT in earlier proceedings. The Applicant has been repeatedly observed to be filing applications which have been characterised as dilatory and obstructive in nature, thereby attempting to derail the CIRP process at an advanced stage. Such conduct cannot be ignored while exercising jurisdiction under Section 60(5) of the Code.

9. Further, the relief sought by the Applicant includes a prayer to stay the voting/approval process of the Resolution Plan, which is not only rendered infructuous in view of the fact that the CoC has already approved the plan, but also runs contrary to the statutory framework where commercial wisdom of the CoC is accorded primacy and is not ordinarily subject to interference except on limited grounds under Section 30(2) of the Code.

10. The Insolvency and Bankruptcy Code is a time-bound mechanism and is premised on value maximisation through expeditious resolution. Entertaining such belated Applications at the stage of approval of the Resolution Plan would defeat the very object of the Code and prejudice the interests of stakeholders who have already exercised their commercial wisdom.

<u>CONCLUSION:</u>

11. In view of the foregoing discussion and findings, this Tribunal is of the considered opinion that the present Application is not maintainable as it is grossly delayed and reliefs prayed for at such a belated stage cannot be granted. Further, the applicant has displayed a pattern of conduct already noticed by this Tribunal and

the Hon'ble NCLAT in earlier proceedings as being dilatory and obstructive in nature and this Application is one more of such attempts. This cannot be countenanced in time bound IBC proceedings. Therefore this tribunal directs the Applicant to pay a cost of Rs 2,00,000/- (Rs Two lakhs only) to be deposited in the Prime Minister's National Relief Fund within two weeks from the date of this order and submit proof of payment to the Registry of this Tribunal.

13. In the result, **I.A. (I.B.C) No. 1174 of 2025** is hereby **dismissed** and **disposed of, with costs.**

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

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

I.A.(I.B.C)/1082(CH)2025
in
CP (IB) No. 248/Chd/Chd/2019
(Admitted)

(Application under Section 60(5) of the read with section 42 of the Insolvency and Bankruptcy Code, 2016)

<u>IN THE MATTER OF I.A(IBC) No. 1082 of 2025:</u>

Mona Portfolio Ltd.
Through RP Mr. Kailash Shah
(IBBI/IPA-001/IP-00267/2017-18/10511)
Unit-1200, 12th Floor, Best Sky Tower,
Netaji Subhash Place, Pitampura,
Shakur Pur I Block,
North-West Delhi-110034
Email: monaportfoliolimited@gmail.com

Also at
505, 21st Century Business Center,
Near World Trade Center, Ring Road, Surat-395002
Email: ipktshah@gmail.com

...Applicant Company

Vs.

Mr. Mohit Chawla
Resolution Professional ("RP")
Chandigarh Overseas Private Limited
Address: SCO 26, Shri Balaji Complex, Old Ambala Road, Himmatgarh,
Dhakauli, Sub Tehsil Zirakpur, Sahibzada Ajit Singh Nagar,
Punjab ,140603
Reg. No. IBBI/IPA-001/IP-P00524/2017-2018/10949
Email- irpcpl@gmail.com **...Respondent**

IN THE MAIN MATTER OF:

Kone Elevator India Private Limited

... Petitioner/Operational Creditor

Vs.

Chandigarh Overseas Private Limited

...Corporate Debtor

Order delivered on:10.07.2026

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

Present:

For the Applicant:	Ms. Munisha Gandhi, Senior Advocate Mr. Joel, Advocate Mr. Chakitan Papta, Advocate Ms. Salina Chalana, Advocate
For the RP/Respondent:	Mr. Atul V Sood, Advocate Mr. Rohan Sood, Advocate

ORDER

The present Application has been filed by Mona Portfolio Ltd.(hereinafter referred to as **the Applicant Company**), through its RP i.e Mr. Kailash Shah under section 60(5) read with section 42 of the Insolvency and Bankruptcy Code (hereinafter referred to as **the Code**) forseeking inter alia, to direct the Resolution Professional(RP) to take the claim of the Applicant on record against the Corporate Debtor under the category of Financial Creditor (as an unrelated party).

BRIEF FACTS:

2. Brief facts of the case, as averred by the Applicant, are as under:

(a) The Application is preferred on behalf of the Applicant Company- a public limited company and erstwhile Non Banking Financial Company which is under CIRP vide NCLT, New Delhi Order dated 05.12.2024 in *Plaza Commercial Private Limited vs. Mona Portfolio Limited* [CP (IB) No. 585 of 2024] (**Annexure A-1**) wherein Mr. Kailash Shah was appointed as the RP vide Order dated 11.02.2025 (**Annexure A-2**). The Applicant, being aggrieved by the arbitrary and non-speaking classification of its claim by the RP of the Corporate Debtor as a "Related Party" instead of an independent Financial Creditor. As recorded vide this Tribunal Order dated 15.04.2025 in the Applicant's earlier I.A. No. 561 of 2025, the Ld. Counsel for the RP stated that "the amount which is claimed by the applicant in this application has already been admitted by RP as a related party." The Applicant submits that such classification is legally untenable under the Code and gravely prejudices the Applicant's statutory rights, leaving the Applicant with no alternative but to file the present Application seeking directions to the RP to rectify the records and admit the Applicant company's claim as that of an independent Financial Creditor.

(b) The Applicant Company incorporated on 13.03.1996, was granted an RBI Certificate of Registration on 04.04.2001 to operate as a non-public deposit-accepting NBFC. In the ordinary course of business, the Applicant Company advanced credit facilities to the Corporate Debtor from FY 2014-2015 to FY 2023-2024 on a running account basis, reflecting periodic disbursements and repayments as evidenced by its ledger account. Subsequently, through a Memorandum of Understanding dated 17.06.2018 (Annexure A-5), the Applicant Company was completely taken over by a new management team for valuable consideration, whereby the shareholding and control of the erstwhile promoter-directors- who were related to the Corporate Debtor, were entirely transferred to unrelated individuals during FY 2018-2019, thereby severing any "related party" status.

(c) During FY 2018-2019, the Applicant Company effectuated the transfer of control through multiple share transfers, as evidenced by Board Resolutions dated 01.04.2018 and 22.09.2018 (Annexures A-6 & A-7) and the shareholder register as of 31.03.2019 (Annexure A-8), thereby demonstrating that the Applicant Company ceased to be a related party to the Corporate Debtor post-FY 2018-2019. The Applicant Company submitted that the delay in updating the Ministry of Corporate Affairs portal regarding the Memorandum of Understanding dated 17.06.2018 was strictly due to the statutory requirement for prior RBI approval, given the Applicant Company's status as a registered NBFC at the material time. The NBFC certification of the Applicant Company was cancelled by the Reserve Bank of India on 20.02.2019, which cancellation was unsuccessfully challenged through internal appeals before the RBI, constraining the Applicant Company to impugn the same via Writ Petition bearing W.P. (C) No. 4853 of 2022 before the Hon'ble High Court of Delhi; and though interim relief was declined at the initial listing on 24.03.2022 with liberty to press for the same post completion of pleadings (Annexure A-9), the Applicant Company subsequently continued operations as an ordinary non-NBFC entity and duly disclosed and updated the shareholding transfers on the Ministry of Corporate Affairs portal.

(d) Following the initiation of the Corporate Debtor's CIRP on 27.02.2023, the Applicant Company submitted its claim on 23.10.2023, comprising a principal amount of Rs. 11,41,87,577 and interest of Rs. 8,23,84,665 as of 30.09.2023. In response to the Interim Resolution Professional's (IRP) request dated 29.10.2023, the Applicant Company provided additional documents on 21.11.2023. Subsequently, via emails dated 20.11.2023 and 12.01.2024, the IRP alleged concealment of documents and stated that the final outcome was subject to the Committee of Creditors' decision, after which all communication ceased. In October 2024, during routine account finalization, the Applicant Company discovered on the IBBI website that its claim had been arbitrarily rejected without any reasons or adjudication, denoted merely by a "—" in the admitted claim column (Annexure A-15), demonstrating a complete failure of the IRP's statutory duties.

(e) Consequently, the Applicant Company preferred I.A. No. 561 of 2025 seeking directions for the verification and admission of its claim. While the Learned Counsel for the RP submitted on 15.04.2025 that the claim stands admitted, it was erroneously classified under the "Related Party" category. The Applicant Company is not a related party to the Corporate Debtor for the reasons detailed hereinabove, the Applicant Company is constrained to file the instant Application seeking explicit directions from this Tribunal to the RP to admit its claim strictly under the category of an independent, unrelated Financial Creditor.

(f) It is pertinent to mention that the learned RP has also filed a separate avoidance application, vide I.A. No. 1068 of 2024, seeking recovery against the Applicant Company under Section 43 of the Code based on the false assertion of its "related party" status- a claim the Applicant Company has vehemently contested via a detailed reply already on record. The RP's assertion is erroneously predicated on the premise that the Corporate Debtor’s director, Tejinder Setia, along with his family members, continue as directors and shareholders of the Applicant Company as per the outdated balance sheet dated 31.03.2022. The RP has vexatiously concealed the subsequent balance sheet for the financial year ending 31.03.2023, which explicitly discloses that these individuals have not only resigned from the directorship but have also entirely relinquished their shareholding in favor of a new management team. Currently, the independent, extant Board of Directors of the Applicant Company comprises of:

- **Varsha Bansal** (Appointed: 22.08.2022)
- **Prashant Kumar** (Appointed: 27.02.2024)
- **Dolly** (Appointed: 29.04.2024)

(g) Furthermore, the current management and directorship status stand duly updated on the Ministry of Corporate Affairs portal, as substantiated by the MCA Company Master Data accessed on 14.09.2024 (Annexure A-16), alongside Form AOC-4 (Annexure A-17), the Directors' Report (Annexure A-18), Audited Financial Statements (Annexure A-19), the AGM Notice (Annexure A-20), and Form MGT-14 (Annexure A-21) for FY 2022-2023. This statutory transition is mirrored by a complete overhaul in the shareholding pattern, wherein the erstwhile promoter-directors related to the Corporate Debtor entirely transferred their stakes to the incoming promoter team, as verified by the Shareholder List as of 31.03.2023 (Annexure A-22) and Form MGT-7 (Annexure A-23). Consequently, in view of these incontrovertible changes in ownership and control, it is respectfully prayed that the Applicant Company be explicitly taken on record as an independent, unrelated Financial Creditor.

3. <u>Reply of the Respondent (RP):</u>

(a) The Respondent has raised a preliminary objection regarding the maintainability of the present Application, contending that it has been filed under Section 42 read with Section 60(5) of the Code whereas Section 42 is applicable only during liquidation proceedings and provides an appeal against the decision of a Liquidator regarding admission or rejection of claims.

(b) It is submitted that the Corporate Debtor is presently undergoing CIRP and the Respondent is functioning as the Resolution Professional and not as a Liquidator. Therefore, invocation of Section 42 for challenging the classification of the Applicant's claim during CIRP is stated to be legally untenable and the Application is liable to be rejected at the threshold.

(c) The Respondent contends that the Applicant Company has failed to place on record any document establishing that the alleged debt constitutes a "financial debt" under Section 5(8) of the Code. It is stated that there is no loan agreement, sanction letter, agreed rate of interest, repayment schedule, security document, evidence of interest servicing or TDS deduction to prove disbursement against consideration for the time value of money. It is further stated that mere reliance on ledger extracts and self-serving assertions is insufficient to establish the existence of a financial debt and, therefore, the prayer seeking classification as a Financial Creditor is misconceived. Although the Applicant Company claims to be an NBFC registered with the RBI, the Respondent submits that no material has been produced to demonstrate that the alleged transactions were undertaken in accordance with RBI regulations or that the transactions possessed the attributes of lending against time value of money.

(d) The Respondent further contends that the Applicant Company does not qualify as an Operational Creditor under Sections 5(20) and 5(21) of the Code as admittedly no goods were supplied and no services were rendered by the Applicant Company to the Corporate Debtor. Consequently, it is averred that the Applicant Company is neither a Financial Creditor nor an Operational Creditor and, at best, may fall within the category of "Other Creditors", disentitling it from the relief sought.

(e) It is specifically pleaded that the Applicant Company was a related party of the Corporate Debtor at the relevant time, as Mr. Tejinder Setia, Director of the Corporate Debtor, held 10.94% shareholding in the Applicant company, while his wife Mrs. Himani Setia held 9.11% shares and his son Mr. Sagar Setia held 13.28% shares. In support of the aforesaid contention, the Respondent has relied upon Annual Returns in Form MGT-7 for the financial years 2018-19 to 2021-22 and a shareholding chart prepared from the records available on the MCA portal. The Respondent alleges that the Resolution Professional of the Applicant deliberately suppressed the Annual Returns in Form MGT-7 for the financial years 2018-19 to 2021-22, despite the same being publicly available on the MCA portal.

(f) It is further contended that the Applicant Company failed to place on record statutory financial statements in Form AOC-4 for the relevant years, which would have reflected the historical pattern of control, beneficial ownership and promoter shareholding and would have assisted in determining whether the Applicant Company continued to be a related party. The Respondent alleges that the Applicant selectively relied upon documents pertaining only to FY 2022-23 to project a belated change in shareholding and control while suppressing earlier records showing continued control by the Setia family. It is further alleged that the Applicant

Company deliberately withheld the complete lists of shareholders for FY 2018-19 to FY 2021-22 and instead produced only the shareholding position as on 31.03.2023 to conceal the continued shareholding and control of persons related to the Corporate Debtor. According to the Respondent, these selective disclosures were deliberately made to create a false impression that the Applicant Company had ceased to be a related party after FY 2018-19. The Respondent has also challenged the genuineness of documents annexed as Annexures A-5 to A-8, including the Memorandum of Understanding dated 17.06.2018, Board Resolutions and share transfer records, alleging that the signatures appearing therein do not tally with signatures available in statutory filings made before the MCA. It is further alleged that these documents are fabricated and have been created merely to support a false narrative of takeover and change in promoters in June 2018. The Respondent points out that the alleged list of shareholders as on 31.03.2019 is inconsistent with the Form MGT-7 filed before the Registrar of Companies, which shows that members of the Setia family remained shareholders of the Applicant Company till at least 31.03.2022.

(g) The Respondent has also disputed the alleged Board Meeting dated 22.09.2018, asserting that no such meeting was held, as reflected from the Annual Return in Form MGT-7 and, therefore, the alleged Board Resolutions are fabricated and incapable of proving any transfer of control. It is further contended that the Applicant's story of transfer of shareholding in favour of new promoters in 2018 is contradicted by its own Annual Return in Form MGT-7 for FY 2018-19, wherein no such transfer of shares has been disclosed.

(h) The Respondent has also challenged the authenticity of the ledger account relied upon by the Applicant, contending that the ledger reflects accrued interest of Rs. 7,75,18,397/- whereas the audited financial statements of the Applicant for FY 2022-23 disclose total Revenue from Operations of only Rs. 4,57,40,480/-. It is thus alleged that the ledger is manipulated and unreliable. The Respondent further maintains that the Applicant remained a related party throughout the relevant period and that any subsequent change in shareholding cannot efface the related-party status in view of the law laid down by the Supreme Court, particularly when the transactions in question originated and substantially continued during the period of such related-party relationship.

3. The Applicant has filed the Rejoinder which substantially reiterates the facts as is stated in the Application. The Applicant and the Respondent have also filed the Short Written submissions.

ANALYSIS AND FINDINGS

4. We have considered the rival submissions and perused the record and have also gone through the provisions of the Code and the rules and regulations made thereunder.

5. On the basis of the submissions made by the learned Counsels appearing for the Parties the following issues arise for consideration which are as follows:

(i) Whether the Applicant has established that the amount claimed constitutes a "Financial Debt" within the meaning of Section 5(8) of the Code?

(ii) Whether the Applicant has been able to prove that it ceased to be a related party of the Corporate Debtor pursuant to the alleged Memorandum of Understanding dated 17.06.2018 and consequent transfer of shares and control?

6. At the outset, it is pertinent to note that the Applicant had earlier instituted I.A. No. 561 of 2025 seeking substantially the same reliefs as are sought in the present application, namely, a declaration that it had ceased to be a related party of the Corporate Debtor and ought to be treated as an unrelated Financial Creditor. The said application was subsequently withdrawn vide order dated 17.02.2026 without obtaining liberty to institute a fresh application on the same cause of action. The present application, founded on the same alleged Memorandum of Understanding dated 17.06.2018 and the same plea of transfer of shareholding and management, is therefore a re-agitation of the very same claim, albeit supported by additional documents. Although the provisions of the Code of Civil Procedure, 1908 are not strictly applicable to proceedings under the Insolvency and Bankruptcy Code, 2016, the principles underlying Order XXIII Rule 1(4) CPC are well recognised and apply to prevent repeated institution of proceedings on the same cause of action after unconditional withdrawal of an earlier proceeding. Consequently, the filing of the present application, without liberty having been obtained in the earlier proceedings, is a relevant circumstance which militates against its maintainability.

<u>ISSUE No.(i)</u>

7. In the present case, the Applicant has primarily relied upon ledger extracts showing debit and credit entries over a period of time. However, except for such ledger entries, no primary documentation evidence for the creation of a financial debt has been produced. It is an admitted fact that there is neither a loan agreement, nor

a sanction letter, no repayment schedule, no agreed rate of interest, no security document, no acknowledgment of debt by the Corporate Debtor, nor any evidence of deduction of tax at source on the alleged interest component.

The mere existence of accounting entries or a running account cannot by itself establish the essential ingredients of financial debt, namely: (i) disbursement against consideration for the time value of money; and (ii) commercial effect of borrowing.

Further, the Respondent has pointed out material inconsistencies in the Applicant's own financial statements. The ledger reflects accrued interest exceeding Rs.7.75 crores, whereas the audited financial statements for FY 2022-23 disclose revenue from operations substantially lower than the alleged interest income. No explanation worth acceptance has been furnished regarding such glaring discrepancies. Therefore, this Tribunal is unable to conclude that the Applicant has established a Financial Debt within the meaning of Section 5(8) of the Code.

ISSUE NO.(ii)

8. The case of the Applicant is founded upon the alleged Memorandum of Understanding dated 17.06.2018 whereby the control and shareholding of the Applicant Company are stated to have been transferred from the Setia family to an unrelated group. There are so many inconsistencies in the said MoU. Firstly, the Applicant has failed to establish the very foundation of the alleged transfer, namely the existence of lawful consideration. Though extensive submissions have been made in the written pleadings regarding alleged payments by members of the Jindal family to members of the Setia family. The MoU itself does not unequivocally establish the

consideration actually paid, the mode of payment, the valuation of shares, or the date of completion of the transaction. In absence of proof of consideration, the alleged transfer of ownership and control remains shrouded in doubt.

Secondly, the statutory records maintained with the Registrar of Companies assume considerable significance. The Annual Returns in Form MGT-7 for FY 2018-19 to FY 2021-22 consistently demonstrate that Mr. Tejinder Pal Setia, Mrs. Himani Setia, Mr. Sagar Setia and Setia Buildcon Pvt. Ltd. continued to hold substantial shareholding in the Applicant Company. Collectively, the Setia group held an overwhelming majority stake even after the alleged MOU of June 2018. The explanation furnished by the Applicant that the delay in reflecting the change in MCA records was on account of RBI approval requirements is unpersuasive. Even assuming that certain regulatory approvals were pending, the fact remains that the Applicant has failed to produce conclusive evidence showing actual transfer of beneficial ownership and cessation of control in the year 2018 itself.

Thirdly, the documents relied upon by the Applicant, namely the Memorandum of Understanding, Board Resolutions and shareholders' list, have been specifically disputed by the Respondent. The Respondent has pointed out discrepancies between these documents and the statutory filings made before the Registrar of Companies. The alleged Board Meeting dated 22.09.2018 does not find mention in the statutory Annual Return and the alleged share transfers are also not reflected in the statutory list of transfers. These inconsistencies cast a serious doubt on the authenticity and evidentiary value of the documents relied upon by the Applicant.

Most importantly, even if the Applicant's version regarding subsequent change in management is accepted, the underlying transactions admittedly commenced when the Applicant was a related party of the Corporate Debtor. The alleged loans were advanced during the period when the Setia family exercised substantial control over both entities. The subsequent restructuring of shareholding cannot retrospectively obliterate the character of the relationship existing at the time when the transactions were entered into. Related-party status must be assessed with reference to the relationship subsisting at the time the underlying transactions were entered into, and cannot be retrospectively cleansed by subsequent cosmetic changes in shareholding or directorship. Therefore, this Tribunal is not persuaded to hold that the Applicant has discharged the burden of proving cessation of related party status.

9. In the result, **I.A. (I.B.C) No. 1082 of 2025** is hereby **dismissed** and **disposed of.**

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