

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 1725 of 2026

[Arising out of the Impugned Order dated 14.08.2026 passed by the 'Adjudicating Authority' (National Company Law Tribunal, New Delhi Bench-III in IA-32/ND/2026 in CP(IB)-108/(PB)/2025)]

IN THE MATTER OF:

**Dickey Special Situation Investment
Trust-DSSF Series 2**

Acting Through its Investment Manager
Dickey Asset Management Private Limited,
Having its office at: 1105, Indraprakash Building,
Barakhamba Road Connaught Place,
New Delhi – 110001

...Appellant

Versus

1. Mr. Manish Agarwal

Resolution Professional of Worlds
Window Exim Private Limited,
307, Prakash Deep Building,
Tolstoy Marg, Connaught Place,
New Delhi – 110001

... Respondent No.1

**2. The Committee of Creditors of Worlds
Window Exim Private Limited**

Through Prudent ARC Limited.
Having its office at: 611, D Mall,
Plot No. A-1, Netaji Subhash Place,
Pitampura, New Delhi – 110034.

... Respondent No.2

3. Mr. Sandeep Chandna

IBBI/IPA-002/IP-N00447/2017-2018/11237
109, Surya Kiran Building, Kg Marg,
New Delhi – 110001.

... Respondent No.3

Present:

For Appellant : Mr. Malak Bhatt & Mr. Anshul Rao, Advocates

For Respondents : Mr. Sandeep Chandna, Advocate for R-3.

Mr. Abhishek Anand, Mr. Kunal Godhwani, Mr. Devisi Bhuwalka & Mr. Ankur Anand, Advocates for R-1.

Mr. Abhishek Mukherjee, Mr. Harsh Rathi & Ms. Anoushka Chauhan, Advocates for R-2/CoC.
Ms. Bhawna Sharma, Advocate for R-3.

With
Company Appeal (AT) (Insolvency) No. 1706 of 2026

IN THE MATTER OF:

Prudent ARC Limited

Acting in its capacity as trustee of the Prudent Trust 97/24, Prudent Trust 81/23, Prudent Trust 108/25, Prudent Trust 102/25, Prudent Trust 114/25, Prudent Trust 114/25 SR II, Prudent Trust 114/25 SR III, and Prudent Trust 114/25 SR IV being the Financial Creditor holding 94.86% of the voting share in the committee of creditors of Worlds Window Exim Private Limited,

611, D Mall, Plot No. A-1, Netaji Subhash Place,
Pitampura, New Delhi-110034.

...Appellant

Versus

1. Mr. Manish Agarwal

Resolution Professional of Worlds
Window Exim Private Limited,
307, Prakash Deep Building,
Tolstoy Marg, Connaught Place,
New Delhi – 110001

... Respondent No.1

**2. Dickey Special Situation Investment
Trust-DSSF Series 2**

Through its Investment Manager
Dickey Asset Management Private Limited,
Having its office at: 1105, Indraprakash
Building, Barakhamba Road Connaught Place,
New Delhi – 110001

... Respondent No.2

3. Mr. Sandeep Chandna

IBBI/IPA-002/IP-N00447/2017-2018/11237
109, Surya Kiran Building, KG Marg,
New Delhi – 110001.
National Capital Territory of Delhi – 110001

... Respondent No.3

Present:

For Appellant : Mr. Arun Kathpalia Sr. Advocate with Mr. Abhishek Mukherjee, Mr. Harsh Rathi and Ms. Anoushka Chauhan, Advocates.

For Respondents : Mr. Malak Bhatt and Mr. Anshul Rao, Advocates for R-2/SRA.

Mr. Abhishek Anand, Mr. Kunal Godhwani, Mr. Devisi Bhuwalka and Mr. Ankur Anand, Advocates for R-1.

Ms. Bhawna Sharma, Advocate for R-3.

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

The present Appeal is filed by the Dickey Special Situation Investment Trust- DSSF Series 2, acting through its investment manager Dickey Asset Management Private Limited, being the successful resolution applicant ("Appellant"/"SRA") in the Corporate Insolvency Resolution Process ("CIRP") of World Window Exim Private Limited ("Corporate Debtor") under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("Code") being aggrieved by the order dated August 14, 2026, passed by the Hon'ble National Company Law Tribunal, New Delhi Bench (Bench-II) ("Adjudicating Authority") in IA No.32/ND/2026 in CP(IB) (- 108 / (PB)) / 2025 | "Impugned Order") by way of which the Hon'ble Adjudicating Authority rejected the Resolution Plan dated April 4, 2026 submitted by the SRA holding that the same did not conform to all the mandatory requirements laid down in sub-section (2) of Section 30 of the Code read with Regulation 39(3)(a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations").

2. The Corporate Debtor is a company incorporated under the Companies Act, 1956 with its registered office at 37A, Basement, C Block, Qutub Vihar, Phase-I, DC Goyla, Southwest Delhi, New Delhi, India, 110071. The Corporate Debtor was incorporated as an asset holding company for its group companies and was not operative. Central Bank of India ("**Central Bank**") filed the captioned Company Petition bearing CP(IB)-108/(PB)/2025 under Section 7 of the Code before the Hon'ble Adjudicating Authority seeking the initiation of the CIRP against the Corporate Debtor ("**Company Petition**"). The Ld. Adjudicating Authority admitted the Company Petition *vide* an order dated May 16, 2025 ("**Admission Order**"), such date being the ("**Insolvency Commencement Date**"), and moratorium under Section 14 of the Code was made effective. Pursuant to the admission of the Company Petition, the interim resolution professional ("**IRP**") took over the management and business affairs of the Corporate Debtor on a going concern basis. The public announcements as required under Section 13(2) of the Code read with Regulation 6 of the CIRP Regulations were made by the IRP on May 20, 2025, in Financial Express (English Edition) and Jansatta (Hindi Edition) inviting creditors to submit their proof of claims by June 3, 2025.

3. It appears from the record, as noted in para 2 of the Impugned Order, that the Corporate Debtor was incorporated only to hold a land bank. Its 99.9999% equity shares were held by Worlds Window Infrastructure and Logistics Pvt. Ltd. and 0.0001% by its nominee. Para 2 of the Impugned Order extracts clauses 2.7 to 2.10 of the Resolution Plan, which set out the assets of the Corporate Debtor on the basis of the information made available by the

Resolution Professional and the Information Memorandum, as derived from the security interests of the secured financial creditors and the search report dated 12.06.2025. The fixed assets so recorded are the following parcels of land in Pargana Loni, District Ghaziabad, Uttar Pradesh:

S. No.	Property	Security interest / remarks (as recorded in the Plan)
1.	0.9860 hectares, Khata No. 216, Khet No. 192, part of Khasra No. 21, Ward No. 101, Village Fatiabad Nithora	Prudent ARC Limited (Prudent Trust 97/24): term loan of Hero FinCorp Limited to Worlds Window Impex India Pvt. Ltd.
2.	1548 sq. m., non-agricultural land, Khasra No. 592, Khata No. 269, Village Fatiyabad Nithaura	Exclusive charge, Prudent ARC Limited (Prudent Trust 81/23): bank guarantee facility of ICICI Bank to Worlds Window Infrastructure & Logistics Pvt. Ltd.
3.	2424 sq. m., non-agricultural land, Khasra No. 900, Village Loni (Chakbandi area)	Exclusive charge, Prudent ARC Limited (Prudent Trust 81/23). The Plan notes that an NOC has been given and payment received for this parcel.
4.	4370 sq. m., commercial land, Khasra No. 10, Fatiabad Nithora	First pari passu charge, Prudent ARC Limited (Prudent Trust 81/23): working capital facilities of ICICI Bank to Maple Logistics Pvt. Ltd.; security interest also of Punjab National Bank (Plan, clause 2.9(i)).
5.	About 1.1656 hectares (2.8790 acres), Khasra Nos. 597, 671, 382 and 592, Villages Loni, Nastraabad Khadkhedi and Fatiabad Nithora	Exclusive mortgage, Prudent ARC Limited (Prudent Trust 108/25): term loan of SREI Equipment Finance Limited to Worlds Window Infrastructure & Logistics Pvt. Ltd.

S. No.	Property	Security interest / remarks (as recorded in the Plan)
6.	2.8420 hectares, Khata Nos. 00192, 00249, 00251 and 00042, Khasra Nos. 190, 32, 166 and 167, Village Fatiabad	Prudent ARC Limited (Prudent Trusts 114/25 and 102/25), Bank of India and Bank of Baroda: working capital facilities to Magnifico Minerals Pvt. Ltd.
7.	0.9860 hectares, carved out of Khata No. 203, Khasra No. 21, Village Fatiyabad Nithora	Charge of Tata Capital Financial Services Limited created on 21.05.2013 for a loan to Worlds Window Infrastructure & Logistics Pvt. Ltd.; satisfied on 03.02.2015.
8.	Khasra No. 902, Village Loni (area not stated)	Charge of the erstwhile Dena Bank (now Bank of Baroda) created on 24.01.2012 for loans to Seagull Maritime Agencies Pvt. Ltd.; discharged after a one-time settlement (see below).

4. The plan adds that, as per the Information Memorandum, this information is subject to confirmation and to the receipt of details of the sale of certain assets of the Corporate Debtor from the financial creditors, and of the consolidated list of its assets as on the CIRP commencement date from the suspended director. As regards the property at Khasra No. 902, Village Loni (item 8), the Plan records, on information received from the Resolution Professional, that the borrower, Seagull Maritime Agencies Pvt. Ltd., defaulted; that Bank of Baroda approved a one-time settlement of Rs. 4,60,00,000/- by its letter dated 27.03.2025; that an Agreement to Sell dated 29.03.2025 was executed amongst the Corporate Debtor (as corporate guarantor), Harbor Realty Pvt. Ltd. (purchaser), the borrower and EWNS Trading Pvt. Ltd. (parent company) for a total consideration of ₹ 4,60,00,000/, credited to the account of EWNS Trading Pvt. Ltd.; that ₹ 4,10,00,000/- was

transferred to Bank of Baroda on 29.03.2025 in full and final settlement; and that Bank of Baroda issued a no-dues certificate dated 27.05.2025, discharging its mortgage. The registered valuers placed the fair value of the Corporate Debtor at INR 21,30,53,919/- and its liquidation value at INR 9,42,25,758/-; according to the Resolution Professional, the fair value of its land and building is INR 14,38,12,102/-.

5. Pursuant to the Admission, the IRP constituted the CoC comprising of the following financial creditors:

S. No	Name of the financial creditor	Amount admitted (in INR)
1.	Central Bank of India	1,88,46,60,621
2.	Bank of India	1,57,04,27,926
3.	Bank of Baroda	1,62,57,52,779
4.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 97/24 (in respect of assignment of term loan provided by Hero FinCorp Limited (HFCL), to Worlds Window Impex India Pvt. Ltd as borrower)	97,438,984
5.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 97/24 (in respect of assignment of working capital term loan provided by Hero FinCorp Limited to Worlds Window Infrastructure & Logistics Pvt. Ltd as borrower)	155,930,341
6.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 81/23 (In respect of assignment of bank guarantee facility provided by ICICI Bank (to Worlds Window Infrastructure & Logistics Pvt. Ltd as borrower)	33,698,362
7.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 81/23 (In respect of	47,294,142

S. No	Name of the financial creditor	Amount admitted (in INR)
	assignment of working capital facilities provided by ICICI Bank to Maple Logistics Pvt. Ltd., as borrower.)	
8.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 108/25 (In respect of assignment of Term Loan provided by SREI Equipment Finance Limited to Worlds Window Infrastructure & Logistics Private Limited as borrower.)	2,72,86,10,383
9.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 114/25 (In respect of assignment of Working Capital facilities provided by State Bank of India to Magnifico Minerals Pvt. Ltd as borrower.)	1,00,39,66,992
10.	Prudent ARC Limited acting in its capacity as trustee of the Prudent Trust 102/25 (In respect of assignment of Working Capital facilities provided by Union Bank of India (UBI) (to Magnifico Minerals Pvt. Ltd as borrower.)	27,50,49,915
11.	Punjab National Bank	51,08,82,562

6. It is brought to our notice that the RP preferred I.A. No. 5860 of 2025 and I.A. No. 5916 of 2025 under Regulation 28 of the CIRP Regulations before the Hon'ble Adjudicating Authority, intimating it of the assignment of the debt of Bank of India, Bank of Baroda, and Central Bank of India to Prudent ARC Limited. The Hon'ble Adjudicating Authority allowed the said applications and took the assignments on record vide its order dated January 29, 2026. Pursuant to the said assignments and the Hon'ble Adjudicating Authority taking the same on record, the following was the revised composition of the CoC:

S. No.	Name of the financial creditor	Claim amount admitted (in INR)	% voting share
1.	Appellant acting in its capacity as a trustee for Prudent Trust 81/23, Prudent Trust 97/24, Prudent Trust 102/25, Prudent Trust 108/25, Prudent Trust 114/25, Prudent Trust 114/25 SR II, Prudent Trust 114/25 SR III and Prudent Trust 114/25 SR IV	9,42,28,30,445	94.86
2.	Punjab National Bank	51,08,82,562	5.14%

Submissions of the Appellant / Prudent Arc Limited

7. Prudent ARC Limited is acting in its capacity as trustee of Prudent Trust 97/24, Prudent Trust 81/23, Prudent Trust 108/25, Prudent Trust 102/25, Prudent Trust 114/25, Prudent Trust 114/25 SR II, Prudent Trust 114/25 SR III, and Prudent Trust 114/25 SR IV (“Appellant”), and also being the financial creditor holding 94.86% of the voting share in the committee of creditors (“CoC”) of Worlds Window Exim Private Limited (“Corporate Debtor”).

8. Impugned Order is based on the erroneous premise that the CoC’s approval of a resolution plan which proposes to pay less than the liquidation value of the Corporate Debtor will breach the provisions of the Code. The Impugned Order rejects the Resolution Plan primarily on the ground that the Total Resolution Amount (INR 7,00,00,000/-) offered in the Resolution Plan is lower than the Liquidation Value of the Corporate Debtor (INR 9,42,25,758/-). The total resolution amount offered under a resolution plan can be less than the liquidation value of the corporate debtor, and no provision of the Insolvency and Bankruptcy Code, 2016 (“Code”) or the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for

Corporate Persons) Regulations, 2016 (“CIRP Regulations”) requires the total amount offered under a resolution plan to match or exceed the corporate debtor’s liquidation value.

9. The Appellant relied on the judgment of the Hon’ble Supreme Court in **Maharashtra Seamless Limited v. Padmanabhan Venkatesh & Ors., (2020) 11 SCC 467 [paras 28 and 30]**, and the same decision was further upheld in **State Bank of India v. Accord Life Spec (P) Ltd. & Ors., 2020 SCC OnLine SC 554 [para 3]**, unequivocally settling the position on this issue.

10. Without prejudice to the above, Section 30(2)(b) of the Code protects/guarantees that the dissenting financial creditors receive at least their entitlement under Section 53 i.e. liquidation value. The Code does not prescribe any minimum payment to be paid to financial creditors who vote in favour of the resolution plan. The Appellant (holding 94.86% voting share) voted in favour of the Resolution Plan, and Punjab National Bank (“PNB”) (holding 5.14% of the voting share) did not cast a vote and is therefore the sole dissenting financial creditor. It is submitted that Clause 3.4(ii) of the Resolution Plan expressly guarantees the minimum payment required to be paid to the dissenting financial creditors in compliance with the terms of the Section 30(2)(b) of the Code by expressly stating that “*In the event any Financial Creditor dissents, such Dissenting Financial Creditors shall be paid the minimum amount as is required in terms of Section 30(2)(b) of the IBC.*” Therefore, as a dissenting financial creditor, PNB’s statutory entitlement under Section 30(2)(b) of the Code is expressly protected under Clause 3.4(ii) of the Resolution Plan, which guarantees that any dissenting financial

creditor shall be paid the minimum amount required under Section 30(2)(b) of the Code.

11. Without prejudice to the above, it is also submitted that the Ld. NCLT's own comparison between the Total Resolution Amount and Liquidation Value was incomplete and unsustainable as the Ld. NCLT failed to take into account the import of Clause 3.7(b) of the Resolution Plan, which entitles the CoC to the Corporate Debtor's cash, cash equivalents and other realisable financial assets, valued at approximately INR 1,15,66,063/-, taking the aggregate recovery available to Financial Creditors to approximately INR 8,15,66,063/.

12. The decision of the CoC to approve or reject the resolution plan and the value proposed therein falls squarely within the commercial wisdom of the CoC, which has consistently been held to be non-justiciable. Reliance is placed on **K. Sashidhar v. Indian Overseas Bank & Ors., (2019) 12 SCC 150 [paragraph 52-55]; Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors., (2020) 8 SCC 531 [paras 64 and 73]**.

13. In view of the foregoing, the rejection of the Resolution Plan solely on the ground that the Total Resolution Amount is lower than the Liquidation Value of the Corporate Debtor is contrary to settled law and unsustainable. The Resolution Plan was approved by the CoC with 94.86% voting share in exercise of the CoC's commercial wisdom which is not amenable to judicial review by the Ld. NCLT. The Impugned Order is therefore liable to be set aside on this ground.

14. The Impugned Order proceeds on the erroneous premise that the Resolution Plan does not sufficiently address the cause of default. The Ld. NCLT erred in holding that the Resolution Plan violated Regulation 38(3)(a) merely because Clause 2.14 states that the Resolution Applicant is not “fully aware” of the cause of default. It is submitted that Clause 2.14 identifies, from the financial statements annexed to the Information Memorandum, that the Corporate Debtor had sustained losses, no turnover, and liabilities exceeding assets, and proposes measures to address these issues. Regulation 38(3)(a) only requires the plan to address the cause of default, which as per plain reading of the terms of the Resolution Plan including Clause 2.14, duly does.

15. Further, the adequacy of how a resolution plan addresses the cause of default falls within the commercial wisdom of the CoC and is not open to re-appraisal by the Ld. NCLT absent a violation of Section 30(2). By reassessing the adequacy of Clause 2.14 instead of confining itself to Section 30(2), the Ld. NCLT impermissibly substituted its own view for that of the CoC. The scope of jurisdiction of the Ld. NCLT and scrutiny and intervention of the Ld. NCLT under Section 31 is clearly settled in **Arun Kumar Jagatramka v. Jindal Steel & Power Ltd., (2021) 7 SCC 474 [para 95]; Vashishth Builders and Engineers Ltd. v. Trishul Dream Homes Ltd., Company Appeal (AT)(Insolvency) No. 732 of 2025 [paras 28-29].**

16. The Ld. NCLT exceeded its jurisdiction by limiting the Appellant’s entitlement as an assignee, having itself recorded the assignment of debt in favour of the Appellant. The Impugned Order, at paragraph 11, unlawfully directs that the Appellant “.... *It is made clear that the ARC will not get the*

share from distributable amount in excess of the amount what it has paid to Central Bank of India and the excess amount if becomes payable to assignee of the debt of Central Bank of India would be paid to the assigner viz. Central Bank of India....” It is humbly submitted that the Ld. NCLT exceeded its jurisdiction in holding the above, and the above direction is contrary to settled law. The assignment of the debt from Central Bank of India to Prudent Trust 114/25 SR IV was carried out in accordance with Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”) and constituted a true sale of the financial debt in favour of Prudent Trust 114/25 SR IV. The assignment was intimated to the Ld. NCLT vide I.A. No. 5916 of 2025 in accordance with Regulation 28 of the CIRP Regulations. Further, the I.A. No. 5916 of 2025 was allowed by the Ld. NCLT *vide* its order dated January 29, 2026 expressly taking the assignment on record. The above assignment constitutes a valid contractual right of the Appellant as an assignee, vesting it with the full rights of a financial creditor under Section 5(7) of the Code, including the right to receive distributions in proportion to its admitted claim for the debt assigned to it, and not limited to the consideration paid for acquiring the debt. Having itself accepted and taken the assignment on record, and having recognised the Appellant as the financial creditor in place of the assignor banks by its own order dated January 29, 2026, the Ld. NCLT could not have revisited or qualified the consequences of that very assignment by capping the Appellant’s entitlement. Such a direction is not only entirely contrary to law and the Appellant’s contractual rights, but also tantamount to a revision of the Ld. NCLT’s own earlier order accepting the assignment for which the Ld. NCLT does not have

jurisdiction. In light of the above, it is submitted that the aforementioned direction in the Impugned Order is completely impermissible and shall be expunged as unwarranted and prejudicial. In any event, such direction is beyond the scope of the Ld. NCLT's jurisdiction under Section 31 of the Code, which is confined to examining whether the Resolution Plan meets the requirements of Section 30(2) of the Code.

17. Valuation of the assets of the Corporate Debtor does not arise for consideration in the present appeal. The Valuation Corporate Debtor's assets was never challenged by any party before the Ld. NCLT, nor does the Impugned Order record any adverse finding on valuation. On the contrary, the Ld. NCLT expressly observed that it could not interfere with the valuation of the Corporate Debtor's assets or reject the Resolution Plan merely because the Total Resolution Amount was lower than the Liquidation Value. In these circumstances, there is no question on validity or veracity of the valuation in the present appeal.

18. Ld. NCLT erred in law by ordering liquidation of the Corporate Debtor without first following the procedure set out in the proviso inserted to Section 31(2) of the Code. Without prejudice to the foregoing, it is submitted that even if the Resolution Plan suffered from the deficiencies identified in the Impugned Order, the Ld. NCLT could not have directly proceeded to reject the Resolution Plan and order liquidation of the Corporate Debtor. As on the date of the Impugned Order, the Insolvency and Bankruptcy Code (Amendment) Act, 2026 ("2026 Amendment Act") was in force, and required the Ld. NCLT: (i) under the proviso to Section 31(2) of the Code, to first afford the CoC an

opportunity to cure any defects in the Resolution Plan before rejecting it; and
(ii) under Section 33(1A) of the Code, before directing liquidation, to consider restoration of the CIRP for a fresh invitation of resolution plans.

19. It is well settled that liquidation is a measure of last resort [see **Duncans Industries Limited v. A.J. Agrochem, (2019) 9 SCC 725, para 7.4**]. In the present case, the CIRP had yielded a Resolution Plan approved by the CoC with 94.86% voting share. Any perceived deficiencies were confined to the Plan and did not justify bypassing the statutory requirement of providing opportunity to cure the defects in the Resolution Plan or considering restoration of the CIRP, before directing liquidation.

20. The Impugned Order is therefore liable to be set aside on this ground alone, as the mandatory procedure prescribed under the amended provisions of the Code was not followed.

Submissions of Respondent No. 1 / Mr. Manish Agarwal, Resolution Professional

21. The present Appeal is preferred by Prudent Arc Limited (as trustee of the Prudent Trusts), a Financial Creditor holding 94.86% of the voting share in the Committee of Creditors (“CoC”) of Worlds Window Exim Private Limited (“Corporate Debtor”), against order dated 14.08.2026 passed by Hon’ble NCLT (“NCLT”) in I.A. No. 32 of 2026 in C.P. (IB) No. 108 of 2025 (“Impugned Order”) rejecting the resolution plan (“Plan”) of Respondent No. 2 (“SRA”), approved by the CoC, in its 9th CoC meeting held on 23.04.2026, with 94.86% voting share.

22. Ld. NCLT rejected the Plan as being violative of (i) Section 30(2)(b) of the Insolvency and Bankruptcy Code, 2016 (“Code”), the Plan value (INR 7,00,00,000/-) being less than the liquidation value (INR 9,42,25,758/-) and (ii) Regulation 38(3)(a) of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”), the SRA being unaware of the cause of default, and initiated liquidation under Section 33(1)(b) of the Code.

23. The Corporate Debtor, an asset holding company with no operations, is Corporate Guarantor of Magnifico Minerals Pvt. Ltd. (Principal Borrower), who was admitted into CIRP on 07.08.2024 and its plan was approved by NCLT on 11.06.2026. The findings of the NCLT in the Impugned Order and the grounds raised by Respondent No. 1 against each are set out below:

"NCLT observed it *“may not interfere with valuation of assets of CD nor can it nix the Resolution Plan on the ground that the plan value is less than the liquidation value”*.

24. No breach of section 30(2) of the Code: Despite NCLT’s observation at paragraph 6, the NCLT rejected the Plan on that very ground, assuming that since the plan value (INR 7,00,00,000/-) is less than the liquidation value (INR 9,42,25,758), the dissenting Financial Creditor i.e., Punjab National Bank (5.14% voting share) would receive an amount that would be less than what it would receive in the event of liquidation. Ld. AA failed to consider Clause 3.4(ii) & (iii) of the Plan wherein it is stated that the dissenting Financial Creditors *“shall be paid the minimum amount as is required in terms of Section 30(2)(b)”*, in cash, in priority to assenting creditors, and *“not less than the (i) amount to be paid to such creditors in the event of a liquidation...”*

The clauses of the Plan referred to above expressly provide that the dissenting Financial Creditor shall be paid in terms of Section 30(2)(b) of the Code. Despite this, NCLT has proceeded on the assumption that a plan whose value is below the liquidation value necessarily violates Section 30(2)(b). This assumption finds no support in the Code or in the terms of the Plan. The Impugned Order, being based on it, is bad in law and liable to be set aside. No provision of the Code or CIRP Regulations mandates the Plan value to be equal or exceed the liquidation value, as observed by the Hon'ble Supreme Court in **Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh, (2020) 11 SCC 46 [Paras 28–30]** and **SBI v. Accord Life Spec (P) Ltd., (2020) 219 Comp Cas 290 [Para 3]**, both of which have been referred to in the analysis below.

25. It is submitted that the valuation process exists to merely assist the CoC. It is further submitted that the total recovery available under the Plan is equivalent to 86.56% of the liquidation value as shown in the table below:

PARTICULARS	AMOUNT (INR)
Liquidation Value (LV) of Corporate Debtor <i>Form H, Clause 7A (LV, Plan value, Fair Value)</i> [<i>@Pg. 861–862</i>]	9,42,25,758/-
Total Resolution Amount under Plan	7,00,00,000/-
Add: Cash and cash equivalents accruing to CoC under clause 3.7(b) of Plan [<i>@Pg. 169/Vol I</i>];	1,15,66,063/-
Total recovery available to financial creditors	8,15,66,063/-

The Fair Value of the Corporate Debtor (INR 21,30,53,919/-) differs from its Liquidation Value because it is the sum of the fair value of its land and

building (INR 14,38,12,102/-) and of its securities and financial assets (INR 6,92,41,817/-).

26. The securities and financial assets consist largely of loans and advances given to third parties. Their realisable value is therefore only about INR 1.15 crore. The Fair Value is a notional figure and does not reflect what the Corporate Debtor's assets would actually realise.

27. In any event, Sections 30(2)(b) and 53 of the Code measure a dissenting Financial Creditor's entitlement only against the liquidation value, and not against the fair value. The Hon'ble Supreme Court in **Maharashtra Seamless (supra) (paras 28–30)** has also held that valuation under the Code serves only to assist the CoC in its decision. Any comparison of the Plan with the Fair Value is therefore irrelevant to the approval of the Plan.

28. Plan value vis-à-vis liquidation value is a non-justiciable commercial decision of the CoC as laid down by Hon'ble Supreme Court in *K. Sashidhar v. Indian Overseas Bank*, (2019) 12 SCC 150 [Para 52] and *Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531 [Para 64].

29. No breach of Regulation 38(3)(a), CIRP Regulations: NCLT failed to consider Clause 2.14 of the Plan [Pg. 150/ Vol I], which records the cause of default (losses, no turnover, liabilities exceeding assets) based on the Information Memorandum ("IM") [Pg. 479/ Vol III], along with the corrective course [Pg. 150/ Vol I]. Regulation 38(3)(a) does not require demonstration of a particular degree or source of knowledge about the default. SRA's assessment was necessarily based on the information disclosed in the IM, as

recognised by the Hon'ble SC in **Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407 [Para 33]; Ghanashyam Mishra & Sons v. Edelweiss ARC, (2021) 9 SCC 65 [Para 61]**".

30. Amended Sections 31(2) And 33(1A) of the Code: Without prejudice, CoC is to be given an opportunity to rectify any defects in the Plan, before its rejection by the NCLT as per the recently inserted Proviso to Section 31(2), Code. Without prejudice, continuation of the CIRP must be considered before initiating liquidation as per Section 33(1A), Code. The Code aims at maximization of value and preservation of the Corporate Debtor as a going concern wherein liquidation should be treated as a last resort as held by the Hon'ble SC in **Duncans Industries Ltd. v. A.J. Agrochem, (2019) 4 SCC 725**, citing **Swiss Ribbons v. Union of India, (2019) 4 SCC 17** and **Committee of Creditors of Essar Steel India Ltd. Vs. Satish Kumar Gupta 2020 (8) SCC 531**.

31. Limited scope of interference: A plan may be rejected u/s 31(2) only for violation of Section 30(2) of the Code, referring to **Vashishth Builders & Engineers Ltd. v. Trishul Dream Homes Ltd., 2025 SCC OnLine NCLAT 949**.

32. Hon'ble Supreme Court has held that judicial intervention by NCLT is to be kept to the minimum. **Arun Kumar Jagatramka v. Jindal Steel & Power Ltd., (2021) 7 SCC 474 [Para 95]**, has also been referred to below.

Analysis and Findings

33. Both appeals are directed against the same Impugned Order dated 14.08.2026. They were heard together and are decided by this common

judgement. We have heard the learned counsel for the parties and have gone through the record. The submissions of the Appellant, Prudent ARC Limited, and of Respondent No. 1, the Resolution Professional, are set out above along with the judgments relied on. Their substance is as follows.

34. The Appellant submits that the Adjudicating Authority rejected the Resolution Plan mainly because the Total Resolution Amount of INR 7,00,00,000/- is lower than the Liquidation Value of INR 9,42,25,758/-. According to the Appellant, no provision of the Code or of the CIRP Regulations requires a plan to match or exceed the liquidation value. It relies on **Maharashtra Seamless Limited v. Padmanabhan Venkatesh & Ors.** and **State Bank of India v. Accord Life Spec (P) Ltd.** stating, *“No provision in the Code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match liquidation value.”*. The Appellant submits that Section 30(2)(b) of the Code protects only the dissenting financial creditors. Punjab National Bank, which holds 5.14% of the voting share, did not vote and is the only dissenting financial creditor. Clause 3.4(ii) of the Resolution Plan assures it the minimum amount payable under Section 30(2)(b). Clause 3.7(b) of the Plan also gives the CoC the cash and realizable financial assets of the Corporate Debtor, valued at about INR 1,15,66,063/-. This takes the total recovery of the financial creditors to about INR 8,15,66,063/-. On Regulation 38(3)(a) of the CIRP Regulations, the Appellant submits that Clause 2.14 of the Plan records the losses, the nil turnover and the excess of liabilities over assets of the Corporate Debtor, as seen from the financial statements annexed to the Information Memorandum, and proposes

measures to deal with them. It is argued that how far a plan addresses the cause of default is a matter for the commercial wisdom of the CoC. According to the Appellant, the Adjudicating Authority could not re-appraise it unless Section 30(2) was violated. It relies on the judgments of **K. Sashidhar v. Indian Overseas Bank**, and **The Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta**.

35. The Appellant also submits that the Adjudicating Authority had no jurisdiction to limit the entitlement of the assignee, as it had itself taken the assignment on record by its order dated 29.01.2026. It adds that the valuation of the assets of the Corporate Debtor is not in issue in these appeals. Lastly, the Appellant submits that the 2026 Amendment Act was in force on the date of the Impugned Order. According to it, the Adjudicating Authority had to give the CoC an opportunity to rectify the defects in the Plan under the proviso to Section 31(2), and had to consider restoration of the CIRP under Section 33(1A), before ordering liquidation.

36. The Resolution Professional also assails the Impugned Order. He submits that Clauses 3.4(ii) and (iii) of the Plan protect the dissenting financial creditor in terms of Section 30(2)(b). According to him, the total recovery under the Plan is 86.56% of the liquidation value. He says that the Fair Value of INR 21,30,53,919/- is only a notional figure, because the securities and financial assets are mostly loans and advances given to third parties and are realizable at only about INR 1.15 crore. He adds that valuation only assists the CoC, and that Sections 30(2)(b) and 53 measure the entitlement of a dissenting creditor against the liquidation value and not

against the fair value. On Regulation 38(3)(a), the Resolution Professional submits that the Adjudicating Authority did not consider Clause 2.14 properly. The Regulation does not require any particular degree or source of knowledge about the default. The applicant has to depend on the information disclosed in the Information Memorandum, as recognized in **Innoventive Industries Ltd. v. ICICI Bank and Ghanashyam Mishra and Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. (supra)**. The Resolution Professional further submits that a plan can be rejected under Section 31(2) only for a violation of Section 30(2), and that judicial intervention must be kept to the minimum. He also relies on the proviso to Section 31(2) and on Section 33(1A) to say that the CoC had to be given a chance to rectify the defects, and the continuation of the CIRP had to be considered, before liquidation was ordered.

37. We have considered the Impugned Order, the Resolution Plan and the submissions made before us. The Adjudicating Authority has given three main reasons for rejecting the Plan. First, the Plan does not address the cause of default, as Regulation 38(3)(a) of the CIRP Regulations requires. Second, the Plan value is below the liquidation value, and so the dissenting financial creditor would get less than its entitlement under Section 30(2)(b) of the Code. Third, the facts of the case raise suspicion about the Plan. On this basis, the Adjudicating Authority ordered liquidation and directed an investigation into the affairs of the Corporate Debtor. It also limited the share of the assignee ARC. We deal with each of these points below.

A. Scope of the Adjudicating Authority's examination

38. The first question is whether the Adjudicating Authority could examine compliance with Regulation 38(3)(a) at all. The Appellant says that this is a matter for the commercial wisdom of the CoC. We do not agree in the facts and circumstances of the case. The jurisdiction of the Adjudicating Authority is limited, and we keep that in mind. But the limit is that it cannot judge the commercial merits of a plan approved by the CoC. It still has the duty to see that the plan meets the requirements of the Code. In **Maharashtra Seamless (para 29)**, the Supreme Court said:

“Once, a resolution plan is approved by the CoC, the statutory mandate on the adjudicating authority under Section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof.”

39. Further this appellate tribunal had held in **Vashishth Builders (para 28)**:

“The provision of Section 31(2) clearly provides that in event the resolution plan is in violation of Section 30(2), it can be rejected by the Adjudicating authority exercising its jurisdiction under Section 31(1).”

40. Section 30(2)(f) of the Code requires that “the resolution plan conforms to such other requirements as may be specified by the Board”. Regulation 38 of the CIRP Regulations is framed by the Board and states the mandatory contents of a resolution plan. Regulation 38(3) requires that a plan shall demonstrate that it addresses the cause of default, is feasible and viable, has provisions for its effective implementation, has provisions for the approvals required and the timeline for the same, and that the resolution applicant has

the capability to implement it. A plan that does not meet Regulation 38(3)(a) therefore does not meet Section 30(2)(f). When the Adjudicating Authority checks this, it does not enter the field of commercial wisdom. It does what Section 31(1) requires of it.

41. The note of caution given by the Supreme Court is against judicial innovation outside the framework of the Code. It does not apply here, because the check under Section 30(2) is a part of that framework. The same has been referred to in **Arun Kumar Jagatramka (supra)**, which is extracted below:

“89. ... However, we do take this opportunity to offer a note of caution for the NCLT and NCLAT, functioning as the Adjudicatory Authority and Appellate Authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from the NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC. This conscious shift in their role has been noted in the report of the Bankruptcy Law Reforms Committee (2015) in the following terms:

"An adjudicating authority ensures adherence to the process at all points, the adherence to the process and compliance with all applicable laws is controlled by the adjudicating authority. The adjudicating authority gives powers to the insolvency professional to take appropriate action against the directors and management of the entity, with recommendations from the creditors committee. All material actions and events during the process are recorded at the adjudicating authority. The adjudicating authority can assess and penalise frivolous applications. The adjudicator hears allegations of

violations and fraud while the process is on. The adjudicating authority will adjudicate on fraud, particularly during the process resolving bankruptcy. Appeals/actions against the behaviour of the insolvency professional are directed to the Regulator/Adjudicator."

B. Regulation 38(3)(a) of the CIRP Regulations

42. The Adjudicating Authority found that the Plan does not address the cause of default. Its findings in para 8 of the Impugned Order are as follows:

"8. Additionally, when as per the provisions contained in Regulation 38(3) of IBBI (Resolution Process for Corporate Persons) Regulations, 2016, the Resolution Plan is expected to address the cause of default, we find from clause 2.14 of the plan that the Resolution Applicant is not even aware about the cause of default and it has intention to utilize the land securitized with lenders after settlement of their dues. The clause further indicate that a viable business proposition will be attended to generate positive returns. We are unable to appreciate that how and in what manner a viable business proposition will be attempted when CD in itself was created as an asset holding company. It may be legal to create an asset holding company, but availing the financial facility by an asset holding company and then assignment of debt by public bank to an ARC and then plan being offered for an amount which does not provide for share which could be received by secured Financial Creditor in case of liquidation lead to a situation, that has to be viewed with suspicion. The clause 2.14 of the plan reads thus:-

"2.14 Addressing for cause of default

Resolution Applicant is not fully aware about the cause of default. However, as per the financial statements annexed to the IM, the Resolution Applicant notes that the Corporate Debtor has been incurring losses and has no turnover. Further, the liabilities of the Corporate Debtor exceed its assets. Accordingly, the efforts will be made to utilize the land securitized with Lenders after settlement of their dues

and a viable business proposition will be attempted to generate positive returns.”

43. Clause 2.14 begins with a statement that the Resolution Applicant “is not fully aware about the cause of default”. It then records that the Corporate Debtor has been incurring losses, has no turnover, and has liabilities exceeding its assets. These are the results of the default. They do not show why the default happened. The clause then says that efforts will be made to use the land secured with the lenders after their dues are settled, and that “a viable business proposition will be attempted to generate positive returns”. It does not say what the business will be, how it will earn revenue, or how the default will be cured.

44. The Corporate Debtor was incorporated as an asset holding company for its group companies and was not operative. Its only assets are the parcels of land set out in the schedule of properties above, most of which stand charged to the lenders of its group companies, and Clause 2.14 proposes no more than to utilize that land after the dues of the lenders are settled. The Adjudicating Authority asked how and in what manner a viable business proposition would be attempted by such a company. We think that this question is fair. Neither Clause 2.14 nor the submissions before us answer it. A statement that a business will be attempted in future is not a demonstration that the cause of default has been addressed.

45. The Appellant and the Resolution Professional say that the applicant had to rely on the Information Memorandum, and they refer to **Innoventive**

Industries (supra) and **Ghanashyam Mishra (supra)**, referring to the following extract:

“33. Under Section 30, any person who is interested in putting the corporate body back on its feet may submit a resolution plan to the resolution professional, which is prepared on the basis of an information memorandum. This plan must provide for payment of insolvency resolution process costs, management of the affairs of the corporate debtor after approval of the plan, and implementation and supervision of the plan. It is only when such plan is approved by a vote of not less than 75% of the voting share of the financial creditors and the adjudicating authority is satisfied that the plan, as approved, meets the statutory requirements mentioned in Section 30, that it ultimately approves such plan, which is then binding on the corporate debtor as well as its employees, members, creditors, guarantors and other stakeholders. Importantly, and this is a major departure from previous legislation on the subject, the moment the adjudicating authority approves the resolution plan, the moratorium order passed by the authority under Section 14 shall cease to have effect. The scheme of the Code, therefore, is to make an attempt, by divesting the erstwhile management of its powers and vesting it in a professional agency, to continue the business of the corporate body as a going concern until a resolution plan is drawn up, in which event the management is handed over under the plan so that the corporate body is able to pay back its debts and get back on its feet. All this is to be done within a period of 6 months with a maximum extension of another 90 days or else the liquidation process begins.”

46. We accept that an applicant prepares its plan on the basis of the Information Memorandum. But the purpose of the Information Memorandum is to help the applicant frame a workable plan. In **Ghanashyam Mishra (supra) (para 61)**, the Supreme Court said:

“All these details are required to be contained in the information memorandum so that the resolution applicant is aware, as to what are the liabilities, that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the Corporate Debtor is revived and made a running establishment.”

47. The Information Memorandum is thus meant to make the applicant aware, so that the plan can revive the Corporate Debtor. It does not excuse a plan which says that the applicant is not aware of the cause of default and which offers no reasoned way to cure it. Nothing in the passages relied on says that Regulation 38(3)(a) can be ignored.

48. It was also argued that how a plan addresses the cause of default falls within the commercial wisdom of the CoC. The Supreme Court held in **Essar Steel (supra) (para 64)** that what is left to the majority decision of the CoC is the “feasibility and viability” of a resolution plan. That wisdom, however, works on a plan that contains what the law requires. The approval of the CoC cannot cure a plan that does not meet a mandatory requirement. If it could, Section 30(2)(f) would have no meaning once the CoC has voted. In this case, the Adjudicating Authority did not put its own view in place of the view of the CoC. It found that a required content was missing from the Plan, and that finding is within Section 31(1).

49. Tribunal in the judgement **Vashishth Builders (Supra)** found that none of the observations of the Adjudicating Authority amounted to a violation of Section 30(2), and that there were ample explanations on the record. Here, the Adjudicating Authority has pointed to a specific requirement of the

Regulations and to the specific words of the Plan. The Appellant and the Resolution Professional also rely on Clause 2.14 alone. They have not shown any other part of the Plan that states the cause of default or how it will be addressed.

50. We therefore hold that the Plan does not satisfy Regulation 38(3)(a) and so does not meet the requirement of Section 30(2)(f) of the Code. The Adjudicating Authority was right in holding that the Plan could not be approved on this ground. This ground is enough by itself to justify the rejection of the Plan.

C. Plan value and Section 30(2)(b) of the Code

51. The Adjudicating Authority also held that the Plan violates Section 30(2)(b). Its findings are as follows:

“6. It is borne out of the record that one of the Financial Creditor viz. Punjab National Bank did not vote in favour of the plan, thus it emerges as dissenting creditor. It may be so that this Tribunal may not interfere with valuation of assets of CD nor can it nix the Resolution Plan on the ground that the plan value is less than liquidation value, but once the plan value is less than liquidation value, the share offered to dissenting secured Financial Creditor would be less than the amount to be paid to it in the event of liquidation of the CD under Section 53 of the Code. During the course of hearing, Mr. Abhishek, the Ld. Counsel for the RP tried to espouse that when Rs. 7 Cr. would be distributed amongst the secured Financial Creditors it may be so that the PNB will get the same amount which could be given to it in the event of liquidation of the CD under Section 53 of the Code. In such situation, the amount payable to other secured creditor would be in violation of explanation 1 to sub-section 2 of Section 30 of the Code. It is no longer *res integra* that the explanation had be read as part of the statute...

7. The Resolution Plan being violative of Section 30(2)(b) of IBC, 2016 cannot be approved and is liable to be rejected.”

52. The Adjudicating Authority first said that it cannot reject a plan merely because the plan value is below the liquidation value. It then held that, since the plan value is below the liquidation value, the dissenting creditor would get less than its entitlement. This assumption does not take into account the terms of the Plan. Punjab National Bank is the only dissenting financial creditor. Clause 3.4(ii) of the Plan provides: “In the event any Financial Creditor dissents, such Dissenting Financial Creditors shall be paid the minimum amount as is required in terms of Section 30(2)(b) of the IBC.” The Resolution Professional has also pointed to Clause 3.4(iii), under which the dissenting creditor is paid in cash and in priority to the assenting creditors. The Plan thus guarantees the entitlement of the dissenting creditor under Section 30(2)(b).

53. Section 30(2)(b) protects the dissenting financial creditors by ensuring that they receive at least their entitlement under Section 53, that is, the liquidation value. The Code does not fix any minimum payment for the financial creditors who vote for the plan. On the lower plan value, the Supreme Court said in **Maharashtra Seamless (supra) (para 28)**:

“No provision in the Code or Regulations has been brought to our notice under which the bid of any resolution applicant has to match liquidation value arrived at in the manner provided in Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.”

54. The Supreme Court repeated this in **State Bank of India v. Accord Life Spec (P) Ltd. (supra) (para 3)**, which has been extracted below:

"3. As a matter of law, this judgment has to be set aside in view of our recent judgment dated January 22, 2020 in Civil Appeal No. 4242 of 2019 entitled Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh in which this court has categorically held as under:*

"No provision in the Code or Regulations has been brought to our notice under which the bid of any resolution applicant has to match liquidation value arrived at in the manner provided in regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This point has been dealt with in the case of Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta. We have quoted above the relevant passages from this judgment."

The amount offered under a plan and its distribution among the creditors are matters for the commercial wisdom of the CoC, as held in **Essar Steel and K. Sashidhar (para 52)**, which has been extracted below:

"52. As aforesaid, upon receipt of a "rejected" resolution plan the adjudicating authority (NCLT) is not expected to do anything more; but is obligated to initiate liquidation process under Section 33(1) of the I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of CoC much less to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors. From the legislative history and the background in which the I&B Code has been enacted, it is noticed that a completely new approach has been adopted for speeding up the recovery of the debt due from the defaulting companies. In the new approach, there is a calm period followed by a swift resolution process to be completed within 270 days (outer limit) failing which, initiation of liquidation process has been made inevitable and mandatory. In the earlier regime, the corporate debtor could

indefinitely continue to enjoy the protection given under Section 22 of the Sick Industrial Companies Act, 1985 or under other such enactments which has now been forsaken. Besides, the commercial wisdom of CoC has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by the I&B Code. There is an intrinsic assumption that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. The opinion on the subject-matter expressed by them after due deliberations in CoC meetings through voting, as per voting shares, is a collective business decision. The legislature, consciously, has not provided any ground to challenge the “commercial wisdom” of the individual financial creditors or their collective decision before the adjudicating authority. That is made non-justiciable.”

A plan value lower than the liquidation value is therefore not, by itself, a ground to hold that a plan violates Section 30(2)(b).

55. We agree with the Appellant on this point. The finding that the dissenting financial creditor may not get its liquidation entitlement cannot be sustained, in view of Clause 3.4 of the Plan. The further remark of the Adjudicating Authority on Explanation 1 to Section 30(2) was made in the same context, and we do not need to decide it. This does not, however, help the Appellant. The Adjudicating Authority did not reject the Plan on this ground alone. The Plan fails on Regulation 38(3)(a), as held above, and the overall circumstances still go against the approval of the Plan, as discussed below.

D. Overall circumstances and the direction for investigation

56. The Adjudicating Authority also found that the Plan raises suspicion. In para 8, extracted above, it noted that the Corporate Debtor was created as

an asset holding company, that it availed financial facilities, that the debt of a public bank was assigned to an ARC, and that the Plan offers an amount which does not provide for the share that a secured financial creditor would receive in liquidation. It further noted, in para 9, that “the learned counsel who represented the suspended promoters conceded the plan instantly”.

57. We see force in these concerns. The Corporate Debtor is an asset holding company with no operations, and it had availed a big loan from financial creditors. The CIRP was admitted on 16.05.2025. While the insolvency process was going on, the debts of Bank of India, Bank of Baroda and Central Bank of India were assigned to Prudent ARC, and the Adjudicating Authority took the assignments on record by its order dated 29.01.2026. After this, Prudent ARC held 94.86% of the voting share in the CoC. The CoC then approved a Plan offering INR 7,00,00,000/-, which is less than the liquidation value, and the counsel for the suspended promoters accepted it at once. We have held that a plan value below the liquidation value is not illegal by itself. But it is a relevant fact when it is seen along with these other facts. These facts, together with the failure to meet Regulation 38(3)(a), justify the doubt of the Adjudicating Authority about the Plan. We do not rest our decision on suspicion alone.

58. The adjudicating authority has also ordered an investigation into the affairs of the corporate debtor under Sections 43, 45, 50, and 66 of the Code and observed as follows:

“The liquidator would investigate the affairs of the CD and would take all legal steps including filing and pursuing applications under Sections 43, 45,

50 and 66 of the Code to disgorge the properties and assets of the CD for being utilized to discharge its debt.”

59. Once the Adjudicating Authority found suspicion about the affairs of the Corporate Debtor, in a case where an asset holding company had availed a big loan and the assignment was made while the insolvency was going on, it was proper to order an independent investigation. The direction is limited to an inquiry by the Liquidator and to such applications as he may file under Sections 43, 45, 50 and 66 of the Code. The persons concerned will be heard in those proceedings before any order is passed against them. We find no infirmity in this direction.

E. Direction limiting the entitlement of the assignee

60. The Appellant has questioned the direction in para 11 of the Impugned Order, which reads as follows:

“11. It is made clear that the ARC will not get the share from distributable amount in excess of the amount what it has paid to Central Bank of India and the excess amount if becomes payable to assignee of the debt of Central Bank of India would be paid to the assigner viz. Central Bank of India....”

61. The Appellant says that the Adjudicating Authority had taken the assignment on record and so could not limit its entitlement. The direction was given on the footing that the assignment was open to suspicion. But the affairs of the Corporate Debtor, including the assignment, are yet to be investigated. What an assignee is entitled to receive will depend on the outcome of that investigation and on the facts and the law applicable. We think that the direction is premature and should wait until the investigation is over. We therefore set aside the direction in para 11 of the Impugned Order. All rights

and contentions of the parties on this question are kept open, to be decided by the Adjudicating Authority at the proper stage.

F. Proviso to Section 31(2) and Section 33(1A) of the Code

62. The Appellant and the Resolution Professional contend that, even if the Plan was defective, the Adjudicating Authority could not reject it and order liquidation directly. They rely on the proviso inserted in Section 31(2) by the 2026 Amendment Act, which deals with giving notice to the CoC to rectify defects before a plan is rejected, and on Section 33(1A), which deals with restoration of the CIRP before liquidation is ordered. For this purpose, we take it that these provisions were in force on the date of the Impugned Order.

63. These provisions are enabling in nature. The proviso to Section 31(2) allows the Adjudicating Authority to give notice to the CoC to rectify defects before it rejects a plan. Section 33(1A) allows it to consider restoration of the CIRP before it directs liquidation. Neither provision makes it compulsory for the Adjudicating Authority to follow that course in every case. It may do so when it is satisfied that the facts call for it. Here, the Adjudicating Authority has decided on liquidation. We have gone through the facts and the material on record. The defects in this Plan are not minor drafting gaps. They relate to a mandatory content of the Plan and to doubts about the conduct of the process, which are now to be investigated. A notice to rectify, or a restoration of the CIRP, would not meet these concerns. We also do not find it necessary to adopt any course other than liquidation.

64. The Appellant and the Resolution Professional rely on the principle that liquidation is the last resort. In **Duncans Industries Ltd. v. A.J. Agrochem (supra) (para 7.4)**, the Supreme Court said:

“The winding up/liquidation of the company shall be the last resort and only on an eventuality when the corporate insolvency resolution process fails.”

65. In **Essar Steel (supra) (paras 71 and 72)**, quoting **Swiss Ribbons**, the Supreme Court also observed that the Preamble does not refer to liquidation, “which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark”. We accept this principle. But the stage for the last resort has come in this case. The CIRP has not produced a plan that meets the requirements of Section 30(2), and the only Plan before the Adjudicating Authority was not up to the mark. Liquidation was therefore the course left under the Code.

Conclusions

66. Our conclusions are as follows:

- (i) The Plan does not demonstrate that it addresses the cause of default, and so it violates Regulation 38(3)(a) of the CIRP Regulations. It therefore does not meet Section 30(2)(f) of the Code. This is a check within Section 31(1) and not a matter of the commercial wisdom of the CoC.
- (ii) The finding that the dissenting financial creditor would receive less than its entitlement under Section 30(2)(b) is not sustained, as Clause 3.4 of the Plan protects its entitlement and no provision requires a plan to match the liquidation value. This does not change the result of the appeals.
- (iii) The overall circumstances of the case support the doubt of the Adjudicating Authority about the Plan. The direction for investigation by the Liquidator, including applications under Sections 43, 45, 50 and 66 of the Code, is upheld.

(iv) The direction in para 11 of the Impugned Order, limiting the share of the assignee, is premature and is set aside. All contentions on this question are kept open.

(v) The proviso to Section 31(2) and Section 33(1A) of the Code are not mandatory in every case. The Adjudicating Authority was justified in rejecting the Plan and in ordering liquidation of the Corporate Debtor under Section 33(1)(b) of the Code.

Order

67. For the reasons stated above, we do not find any infirmity in the Impugned Order dated 14.08.2026, except for the direction in para 11 limiting the entitlement of the assignee, which is set aside as stated above. Company Appeal (AT) (Insolvency) No. 1725 of 2026 and Company Appeal (AT) (Insolvency) No. 1706 of 2026 are accordingly dismissed. The order of the Adjudicating Authority rejecting the Resolution Plan, directing liquidation of the Corporate Debtor and directing investigation into its affairs stands upheld, subject to the modification made above. No order as to costs. Pending applications, if any, are closed.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
October 12, 2026.

pawan