NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI BENCH (COURT-II)

IA-5505/2024, IA-134/2025, IA-246/2025, IA-6125/2024, IA-6124/2024, IA-6014/2024, IA-2148/2024, IA-274/2025, IA-2806/2026 and IP-5/2024

IN

Company Petition No. (IB)- 97(ND)/2022

IN THE MATTER OF (IB)-97(ND)/2022:
(Under Section: 95 of IBC, 2016)

Indiabulls Housing Finance Limited **... Applicants/ Financial Creditors**

Versus

Dr. Subhash Chandra **... Respondent/ Personal Guarantor**

AND IN THE MATTER OF I.A. NO. 5505/ND/2024:
(Under Section: 114 r/w Section 112 of IBC, 2016)

Shiv Nandan Sharma
ResolutionProfessional
129, Ground Floor, Navjeevan Vihar,
Near Aurobindo College, New Delhi – 110017 **... Applicant**

Versus

Dr. Subhash Chandra
Personal Guarantor
B-10, Lawrence Road
Industrial Area, Delhi – 110035 **... Respondent**

AND IN THE MATTER OF I.A. NO. 134/ND/2025:
(Under Section: 109 r/w Section 60(5) of the IBC, 2016)

IndusInd Bank Limited
IndusInd Bank, Hyatt Regency Complex,
11th Floor, District Centre,
Block A, Bhikaji Cama Place,
New Delhi **... Applicant**

Versus

Shiv Nandan Sharma
(Resolution Professional)
129, Navjeevan Vihar,
Near Aurobindo College
New Delhi – 110017 **... Respondent**

AND IN THE MATTER OF I.A. NO. 246/ND/2025:
(Under Section 60(5) of the IBC, 2016)

RBL Bank Limited
One World Center, 20th Floor,
Tower 2B, 841, Senapati Bapat Marg,
Lower Parel (West), Mumbai – 400013 **... Applicant**

Versus

Shiv Nandan Sharma
(Resolution Professional)
129, Navjeevan Vihar,
Near Aurobindo College,
New Delhi – 110017 **... Respondent**

AND IN THE MATTER OF I.A. NO. 6125/ND/2024:
(Under Section: 60(5) and Section 114(1) of the IBC, 2016)

Canara Bank
Stressed Asset Recovery Management
Branch C-33, DDA Shopping Complex,
Opposite Moolchand Hospital,
Defence Colony, New Delhi – 110024 **... Applicant**

Versus

Shiv Nandan Sharma
(Resolution Professional)
129, Navjeevan Vihar,
Near Aurobindo College,
New Delhi – 110017 **... Respondent**

AND IN THE MATTER OF I.A. NO. 6124/ND/2024:
(Under Section: 109 r/w Section 60(5) of the IBC, 2016)

HDFC Bank Limited
HDFC Bank House, Senapati Bapat Marg,
Lower Parel (West), Mumbai – 400013 **... Applicant**

Versus

AND IN THE MATTER OF I.A. NO. 6014/ND/2024:
(Under Section: 60(5) of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

IDBI Trusteeship Services Limited
Universal Insurance Building,
Ground Floor, Sir P.M. Road,
Fort, Mumbai – 400001 **... Applicant**

Versus

Shiv Nandan Sharma
(Resolution Professional)
129, Navjeevan Vihar, Near
Aurobindo College,
New Delhi – 110017 **... Respondent**

AND IN THE MATTER OF I.A. NO. 2148/ND/2024:
(Under Section: 98(1) of the IBC, 2016)

Indiabulls Housing Finances Ltd.
M- 62 & 63 First Floor,
Connaught Place,
New Delhi-11001 **... Applicant**

Versus

Dr. Subhash Chandra
B-10 Lawrence Road Industrial Area
Delhi-110035 **... Respondent**

AND IN THE MATTER OF I.A. NO. 274/ND/2025:
(Under Section: 60(5) of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

STCI Finance Limited
A/B1-802, 'A' Wing, 8th Floor,
Marathon Innova, Marathon Next Gen Compound,
Off Ganpatrao Kadam Marg,
Lower Parel (W), **... Applicant**

AND IN THE MATTER OF Inv. Petition No. 5/ND/2024:

(Under Section: 60(5) of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

AXIS BANK LIMITED
Axis House, Wadia International Centre,
Pandurang Budhkar, Worli,
Mumbai-400025 **... Applicant**

Versus

1. **Indiabulls Housing Finance Limited**
   M-62 and 63, 1st Floor,
   Connaught Place, New Delhi-110001

2. **Dr. Subhash Chandra**
   B-10, Lawrence Road Industrial Area,
   Delhi-110035 **... Respondents**

Order Delivered on: 31.08.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

MS. REENA SINA PURI, HON'BLE MEMBER (T)

PRESENT:

For the IDBI Trusteeship Services Limited	:	Adv. Kashish Narang, Adv. Renuka Iyer
For the RP	:	Sajeve Deora, Adv. for Mr. SN Sharma RP
For the Canara Bank	:	Sr. Adv. Mr. Ritin Rai, Adv. Mr. Anju Jain, Mr. Hitesh Sachar
For the UBI	:	Mr. Alok Kumar, Adv.
For World Crest Advisors LLP, Veena Investments Pvt. Ltd. and Direct Media Distribution Ventures Pvt. Ltd.	:	Adv. Mr. Prateek Mishra and Adv. Mr. Sumit Singh Bagri

ORDER

The report under Section 112/113 of IBC came up for consideration before this Bench, constituted under Section 419(3) of IBC, 2016. Considering the gamut of facts and law, one of us [M(J)] authored original order, confining the repayment plan, only to such creditors who voted in support thereof and giving liberty to financial institutions, banks and other dissenting creditors to resort to process to recover the debt outside the plan, which was the plea of some of the banks. The M(J) had taken note of the plea of Axis Bank Limited in para 3 of the order authored by him. The para reads thus:-

> *"**3.** Thereafter, hearing in the present proceedings had to be deferred from time to time. Later, an Intervention Petition i.e. IP(IBC)-5/2024 was preferred by Axis Bank Limited, espousing therein that it (Axis Bank) intended to institute appropriate legal proceedings against the Debtor for recovery of outstanding dues arising out of his obligations as a Personal Guarantor and the pendency of IB-97/ND/2022 was coming in his way. The prayer made in the IP(IBC)-5/2024 reads thus:-*

(i) allow the present application and permit the Applicant to be impleaded / intervene in C.P. (I.B.) No. 97 of 2022;

(ii) dismiss C.P. (I.B.) No. 97 of 2022 on account of discharge of the personal guarantor, *i.e.*, Subhash Chandra in view of the settlement between the corporate debtor, *i.e.*, Vivek Infracon Private Limited and Indiabulls Housing Private Limited;

(iii) alternatively, direct Indiabulls Housing Private Limited to conclude its settlement discussions with Subhash Chandra and withdraw C.P. (I.B.) No. 97 of 2022 within 7 days and in the event of the failure of Indiabulls Housing Private Limited to withdraw the said insolvency petition within such period, adjudicate C.P. (I.B.) No. 97 of 2022 on its merits at the earliest convenience of this Hon'ble Tribunal or alternatively, dismiss the said insolvency application in case of failure of Indiabulls Housing Private Limited to press / prosecute the same;

(iv) grant an injunction restraining Subhash Chandra from making any payment / part-payment to Indiabulls Housing Private Limited or any other creditors of Subhash Chandra pursuant to the alleged settlements discussions between Indiabulls Housing Private Limited and Subhash Chandra or otherwise, during the period of interim moratorium;

(v) grant an injunction restraining Subhash Chandra from transferring, alienating, encumbering or disposing of any of his moveable or immoveable, tangible or intangible property, assets or legal rights or beneficial interest therein, whether in India or outside of India, pending the disposal of C.P. (I.B.) No. 97 of 2022;

(vi) pass interim / ad-interim directions in terms of the above; and/or

2. The IBC is amphibious piece of legislation which comprise both substantive and the procedural provisions. Broadly, the interpretation of Section 79(2)(g) emerged as vital issue to be determined by the Division Bench. Indubitably, the provision being one involving substantial right/locus/entitlement of certain parties, is substantive in nature. Though, the M(J) was conscious of the factual position that some of the creditors could be described as interested parties, but being not covered by the definition of associates their right to vote under Section 111 of IBC, 2016 could not be nixed. Thus, to deal with the situation, he exercised his discretion while issuing direction under Section 115(1) of the Code which is procedural in nature. While doing so, he confined the approval of repayment plan only to those creditors who approved it and did not bind the creditors who did not approve the plan, by the provisions thereof and recorded liberty to them to resort to debt recovery process, which was plea of some of them. While doing so, the M(J) was conscious of the fact that the PIRP was initiated by Indiabulls Housing Finance Limited, who accepted the Resolution Plan. While passing the order, the M(J) espoused his thought:-

i. In bankruptcy, in a process initiated way back in the year 2022, the PG if declared bankrupt would be hardly left with any asset from which the debt of the creditors could be recovered and even if any asset could be found, the same would be shared by the banks/financial institutions (19.2% creditors) with 80.8% other creditors who supported the plan.

ii. If at the strength of Section 79(2)(g), if the PG is kept solvent he would be liable to discharge his past liabilities towards the creditors in debt recovery process.

iii. Unlike, PIRP/bankruptcy which is a process beneficial to debtor, the debt recovery process is an effective process available to creditors to recover their debt, which was the plea of the creditors who did not initiate PIRP and who voted against the repayment plan.

iv. Some of the banks had also raised the plea that they should be left at liberty to resort to process to recover their debt.

v. The approval of repayment plan would also trim the creditors whose bona fide is questioned and the genuine creditors would have their claim against the assets of the PG/PD.

vi. Regarding the claims also against the principal debtor, the financial institution/bank could take a plea that 80.08% creditors had settled with the Guarantor who had concurrent liability, thus their assets were available purely to 19.02% creditors viz. banks and financial institutions.

3. The approval of repayment plan by confining the same to assenting creditors, with liberty to banks/financial institutions/dissenting creditors to recover their debt, as held by Member (J) in the original order, is different from approval of the plan, extinguishing the claim of all the creditors including banks and financial institutions as held by the Ld. Third Member.

4. Thus, the Ld. Third Member has not agreed with the view taken by M(J) and has taken a different view, by recording independent reasoning, though his understanding and interpretation of Section 79(2)(g) of IBC is same as is that of M(J). When, the M(J) applied Section 115(1) of the Code only to assenting creditors, the Third Member has applied it to all the creditors. Clearly, the application of procedural provision viz. Section 115(1) will make vital difference in ramification of the plan.

5. Regarding the scope of jurisdiction of Adjudicating Authority, when the view of the M(J) was that the same was required to be passed on the basis of the report of the meetings of the creditors submitted by the Resolution Professional under Section 112 and there was not much scope for it to question the same, the Ld. Third Member disagreed with both M(J) and M(T).

6. The Ld. Third Member consciously passed an independent order. Thus, no majority view emerges. While M(T) rejected the plan, the M(J) confined the plan to those who accepted and approved it and accorded liberty to dissenting creditors to recover their debt. He did not extinguish the claim of banks/financial institutions/dissenting creditors qua principal debtor/debtor/PG. The Ld. Third Member approved the plan but extinguished the right of all the creditors by applying Section 115(1) of the Code uniformly. All said and done, no majority view has emerged in the matter. In the wake, no order can be passed at this stage. Resultantly, we have no option but to make fresh reference to Hon'ble President in terms of the provisions of Section 419(5) of the Code.

Sd/-
(REENA SINHA PURI)
MEMBER(T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)