NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

1. IA/4320/2023 C.P. (IB)/979(MB)2022

IN THE MATTER OF

Catalyst Trusteeship Limited … Petitioner

Vs

Renaissance Indus Infra Private Limited … Respondent

U/s 7 of the Insolvency & Bankruptcy Code, 2016

Order Delivered on 26.11.2025

CORAM:

SH. MOHAN PRASAD TIWARI
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:
For the Petitioner:

For the Respondent:

ORDER

IA/4320/2023: The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member(Technical)

Sd/-
MOHAN PRASAD TIWARI
Member(Judicial)

/Ziyaul/

NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH- COURT-V

IA no. 4320 of 2023
in
CP No. 979(MB)2022

M/s. Harisharan Hi-Tech Industries, through its proprietor Smt. Parmeet Kaur P. Chadha
Having address:
Room No. 129-4570, Tribhuvan CHS, New Tilak Nagar, Chembur, Mumbai - 400089

……Applicant/ Unit Purchaser

Vs

Mr. Birendra Kumar Agrawal,
[the Interim Resolution Professional in Corporate Insolvency Resolution Process of Renaissance Indus Infra Private Limited]
Having address:
913, Corporate Annexe, Sonawala Lane, Near Udyog Bhawan, Goregaon (E), Mumbai 400063, Maharashtra

……..Respondent/IRP

Order pronounced on: 26.11.2025

Coram:

SH. MOHAN PRASAD TIWARI MEMBER (JUDICIAL)

SH. CHARANJEET SINGH GULATI MEMBER (TECHNICAL)

Appearances:

For the Applicant(s): Adv. Harshul Shah

For the Respondent: Adv. Kunal Kanungo

ORDER

1. The present Interlocutory Application is filed Under Section 60(5) of Insolvency and Bankruptcy Code 2016 by the Applicant for admission of the Claim of Applicant under the category of 'Financial Creditor' (instead of IRP's admission of the Claim of Applicant under the category of 'other creditor') and admission of the Applicant in the Committee of Creditors of the Corporate Debtor.

2. The brief facts are that the Corporate Debtor was engaged in the development of the *Renaissance Industrial Smart City Project* ("Project"), a project duly approved and registered under RERA. Pursuant to a registered Agreement for Sale dated 31 March 2022 ("Agreement for Sale") and a Memorandum of Understanding dated 13 April 2022 ("MOU"), both executed between the Corporate Debtor (as *Vendor*) and the Applicant (as *Purchaser*), the Applicant purchased a Unit/Gala in the Project. The Applicant paid the entire consideration amount of Rs. 36,28,050/- plus GST of Rs. 4,35,366/-, which payment stands duly acknowledged by the Corporate Debtor. Further the Applicant was also entitled to receive a *monthly assured return* of Rs. 22,914/-, as fixed monthly compensation under the *Guaranteed License Plan* stipulated in Clause 6 of the MOU. The Corporate Debtor paid this assured return regularly until March 2023. However, due to the NCLT order dated 31 March 2023, initiating CIRP against the Corporate Debtor, the assured return for March 2023 remained unpaid. Pursuant to the commencement of CIRP and the Public Announcement published on 06 April 2023, the Applicant submitted its claim on 19 May 2023

in Form C, under the category of *Financial Creditor*, for a total amount of Rs. 40,86,330/-, supported by all requisite documents ("Claim of the Applicant").

3. To the Applicant's surprise, on 20 May 2023 the Respondent/IRP arbitrarily admitted the *entire* claim under the category of **Other Creditor**, instead of **Financial Creditor**. When the Applicant sought clarification regarding the change in category, a member of the IRP's team, one Mr. Rohan, threatened that if the Applicant was dissatisfied with the categorization, the IRP would reject the claim altogether. The Applicant was further informed that the IRP had obtained a legal opinion based on which all *property buyers* of the Corporate Debtor were being classified as *Other Creditors*, thereby depriving them of their legitimate rights under the CIRP. Despite repeated requests, the IRP refused to share the alleged opinion or even the *updated list of creditors*, citing reasons such as the Project not being a "real estate project", which severely prejudiced the Applicant's rights.

4. Due to the opaque and arbitrary approach adopted by the IRP, the Applicant obtained an independent Legal Opinion dated 17 June 2023 from Mr. Harshul Shah, Advocate & Solicitor & Insolvency Professional. The Expert unequivocally opined that the Applicant's claim qualifies as a Financial Debt under Section 5(8)(f) of the IBC and that the Applicant is a Financial Creditor beyond any doubt. This opinion was duly shared with the IRP. Despite the same, the IRP persisted in treating the Applicant as an "Other Creditor". After repeated follow-ups, on 27 June 2023—almost a month after the first request—the IRP merely shared a link containing the *List of Creditors as of 25 May 2023*. The IRP has still not shared an updated list. Several follow-ups requesting appropriate categorization of the Applicant as a Financial Creditor were refused. As a result, the Applicant has been compelled to approach this Tribunal seeking adjudication of its claim.

5. The Applicant has filed this application to declare him as a Financial Creditor; further to direct the IRP/Respondent to admit the Applicant's claim under the

category of Financial Creditor and induct the Applicant into the Committee of Creditors; and if deemed appropriate, direct an inquiry into the suspicious conduct of the IRP, who has similarly mis-categorized several property buyers of the Corporate Debtor as "Other Creditors".

6. The Respondent has filed a detailed Affidavit-in-Reply and specifically denies the genuineness and correctness of the allegations, contentions, and statements made in the application, save and except those expressly admitted herein. The Respondent submits that the application is misconceived, misleading, and an attempt to wrongfully obtain orders from this Tribunal. The Respondent states that the Corporate Debtor, formerly known as Renaissance Infrastructure, was originally constituted as a partnership firm through an Indenture of Partnership dated 02.08.2007. In 2012, it was incorporated under Part IX of the Companies Act, 1956, and allotted CIN U45400MH2012PTC236737. The Corporate Debtor is engaged in developing a chain of industrial smart cities providing world-class infrastructure and facilities. The project under development comprises approximately 497 acres situated in villages Vashere, Pise, Amne, Talavali, and Bhiwandi, catering to micro, small, medium and large-scale industries as well as corporate users. The project is known as *"Renaissance Industrial Smart City."*

7. The Corporate Debtor is the owner and developer of the said Industrial Smart City, which has been declared an Integrated Industrial Area under Notification No. MIDC/IIAB-29139/2016 dated 30.04.2016 issued by the Maharashtra Industrial Development Corporation ("MIDC") under Section 43-1B of the Maharashtra Industrial Development Act, 1961. Under Section 43-1B, a minimum of 60% of the total area must be utilized for industrial development, with the remaining area earmarked for support activities as per prevailing industrial policies.

8. Upon issuance of the aforesaid notification, MIDC became the Special Planning Authority under the Maharashtra Regional and Town Planning Act, 1966, and the development of the project came to be governed by the Development Control

Regulations applicable to Integrated Industrial Areas. Further, MIDC has been declared the Special Planning Authority under Section 40(1)(B) of the Maharashtra Regional and Town Planning Act, 1966. Consequently, the project is required to be executed strictly in accordance with the statutory framework governing integrated industrial areas.

9. The Government of Maharashtra has extended various incentives for such projects, including relaxation of minimum area norms and approach road width, stamp duty concessions, allotment of government land, enhanced permissible FSI, electricity-related benefits, and exemption from development charges. Under this statutory scheme, it is the responsibility of the Corporate Debtor to complete the project and obtain requisite completion and occupancy certificates under the applicable Development Control Regulations. Copies of Notification No. MIDC/IIAB-29139/2016 dated 30.04.2016 and the Additional Development Control Regulations for Integrated Industrial Areas are annexed as Exhibits *A* and *B* respectively.

10. It is further averred that owing to defaults committed by the Corporate Debtor, this Tribunal, by order dated 31.03.2023, admitted the Corporate Insolvency Resolution Process ("CIRP") and appointed the Respondent as the Interim Resolution Professional ("IRP"). The suspended director challenged the admission order before the Hon'ble National Company Law Appellate Tribunal, New Delhi in CA(AT)(Ins) No. 448 of 2023. By order dated 13.04.2023, the Hon'ble NCLAT granted a stay only on the constitution of the Committee of Creditors ("CoC"). There was, however, no stay on the CIRP itself. Accordingly, the Respondent continued to discharge statutory functions, including verification of claims. The Appeal was subsequently dismissed on 23.05.2023.

11. Upon verification of claims and supporting documents, it was observed that the Corporate Debtor had entered into multiple agreements for allotment of industrial units, plots, and sub-plots. The Applicant had similarly executed a registered Agreement for Sale dated 31.03.2022 in respect of Gala No. 005A,

Ground Floor, Building MESH P4 ("subject property"), for the purpose of establishing an industrial/manufacturing activity, as expressly permitted under the applicable industrial location policy.

12. The Corporate Debtor had obtained all requisite permissions for development of the project, as detailed in Annexure 4 of the Agreement. Accordingly, it is evident that the subject property purchased by the Applicant is an industrial unit, and the transaction does not constitute a residential or commercial apartment transaction within the meaning of a real estate project. Reference is placed on Section 5(8) of the Insolvency and Bankruptcy Code, 2016 ("Code"), which defines "financial debt." The deeming provision under Section 5(8)(f), which treats amounts raised from allottees of a real estate project as having the commercial effect of borrowing, applies only where the underlying asset falls within the statutory definition of a "real estate project" under Sections 2(d) and 2(zn) of the Real Estate (Regulation and Development) Act, 2016 ("RERA").

13. It is further averred that although certain structures within the Corporate Debtor's project are registered with MahaRERA, many of these structures comprise godowns/industrial units, which do not fall within the ambit of the Real Estate (Regulation and Development) Act, 2016 ("RERA"). Consequently, the deeming fiction under Section 5(8)(f) of the Insolvency and Bankruptcy Code ("Code") is inapplicable to the Applicant.

14. Without prejudice, the Respondent submits that the Applicant has failed to produce the mandatory No Objection Certificate ("NOC") from Altico, as required under Clause 11.12 of the Agreement. The absence of such NOC casts serious doubt upon the legality and validity of the transaction and the sale of the subject property. Accordingly, the Applicant is not entitled to any of the reliefs sought. Strictly without prejudice, should this Hon'ble Tribunal hold that the Applicant is to be classified as a *Financial Creditor in a class*, the Respondent shall abide by such directions as may be issued. In the circumstances, the Respondent prays that this Hon'ble Tribunal be pleased to dismiss the

Application and pass such further orders as it may deem fit and proper in the facts and circumstances of the case.

15. The sole question that arises for determination is:

Whether the Applicant's claim qualifies as a "Financial Debt" under Section 5(8) of the Insolvency and Bankruptcy Code, 2016, entitling the applicant to be recognised as a "Financial Creditor"?

Facts Not in Dispute

16. It is the admitted position that the Applicant entered into a registered Agreement for Sale dated 31.03.2022 and a Memorandum of Understanding dated 13.04.2022 for purchase of Gala No. 005A, Ground Floor, Building MESH P4, an industrial unit situated in the "Renaissance Industrial Smart City" project. The Applicant paid a total consideration of ₹36,28,050/- plus GST of ₹4,35,366/-, duly acknowledged by the Corporate Debtor.

17. The Applicant was entitled to an "assured return" of ₹22,914/- per month under the Guaranteed License Plan in the MOU, which the Corporate Debtor paid until CIRP commenced. The Applicant filed its claim in Form C as a Financial Creditor. The IRP admitted the amount claimed but categorised the Applicant as other Creditor.

Analysis-

18. The learned counsel for the Applicant contended that he ought to be classified as home buyer. The reliance has been placed on the decision of the Tamil Nadu Real Estate Appellate Tribunal in *GMR Krishnagiri SIR Ltd. vs. Tamil Nadu Real Estate Regulatory Authority*, Appeal No. 55 of 2019, order dated 27.09.2019, wherein it was held that industrial units also fall within the ambit of RERA. It is contended that the nature of the unit whether industrial, commercial, or residential is not determinative of the applicability of RERA. The Applicant submits that the real question in the present matter is not whether the project is

required to be registered under RERA, but whether the Applicant qualifies as an "allottee" or "homebuyer" for the purposes of Section 5(8)(f) of the Code.

19. It is contended by the learned counsel of the Respondent that the Corporate Debtor's project is stated to be an Integrated Industrial Area notified under Section 43-1B of the Maharashtra Industrial Development Act, 1961, comprising predominantly industrial units/godowns. The Respondent relies on the order dated 15.12.2021 passed by MahaRERA in *M/s Juliet Apparels Pvt. Ltd. vs. Renaissance Indus Infrastructure Pvt. Ltd.*, order dated 05.12.202, Techno Drive Engineering Private Ltd. Vs Renaissance Indus Infra Private Ltd. Appeal no. 52195, order dated 14.10.2022 and the MahaRERA decision in *Renaissance Infrastructure & Others vs. Shri Parth Bharat Suchak*, MA No. 290 of 2019, order dated 14.10.2022, wherein it was held that industrial units fall outside the jurisdiction of RERA.

20. Based the above, the learned counsel for the Respondent argues that the Corporate Debtor's project cannot be termed a "real estate project" under RERA. Consequently, the Applicant cannot be treated as a "Financial Creditor" under Section 5(8)(f) of the Code. It is, therefore, contended that the Applicant has been rightly classified as an "Other Creditor." The Respondent also reserves the right to rely on independent legal opinions to support this position.

21. Section 2(zn) of the RERA Act defines a "real estate project" to include the development of a building or a building consisting of apartments, conversion of a building into apartments, or development of land into plots or apartments for the purpose of selling them. The definition also encompasses common areas, development works, improvements, structures, easements, rights, and appurtenances. The definition makes **no distinction** between residential, commercial, or industrial premises. The statutory focus is on two core elements:

    (i) whether there is development activity; and

    (ii) whether the developed units/plots are intended to be sold.

22. If these elements are satisfied, the nature or end-use of the premises does not take the project outside the scope of RERA. Therefore, the Corporate Debtor's project cannot be excluded merely on the ground that the units are industrial in nature. Section 2(zn) is deliberately broad, encompassing any development of land or building intended for sale, irrespective of its ultimate use.

Homebuyers vs. Profit-Motivated Investors-

23. Here the core question for determination is that can applicant be classified as a homebuyer? Section 5(8)(f) of the Code creates a deeming fiction that amounts raised from allottees under a real estate project have the commercial effect of borrowing. This fiction is primarily intended to protect homebuyers i.e., persons investing in residential apartments for the purpose of dwelling. In the present case, the premises purchased by the Applicant is an industrial unit, not a residential apartment. The transaction was entered into with the intention of deriving commercial benefit, as evidenced by the assured monthly returns offered by the Corporate Debtor. Thus, the Applicant acted as an **investor in a commercial/industrial asset**, not as a homebuyer seeking a residence. Accordingly, the essential requirements for treating the Applicant's claim as a "financial debt" under Section 5(8)(f) are not satisfied.

24. Homebuyers constitute a beneficial class under the Code, recognised due to their vulnerability and dependence on the developer for basic residential needs. The Applicant, however, invested money to earn further money, and the agreement itself provides for an assured return. Therefore, the Applicant does not fall within the protective class of homebuyers, and the commercial effect of borrowing cannot be attributed to this transaction. The Insolvency and Bankruptcy Code, 2016 (IBC) is a landmark economic legislation enacted to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms, and individuals in a time-bound manner. Its primary objectives are the maximisation of value of assets, promotion of entrepreneurship, availability of credit, and balancing of stakeholder interests – creditors, investors, employees and workmen inter alia.

25. The Hon'ble Supreme Court's Judgment in Mansi Brar, C.A. No. 3826 of 2020 considered in para 18 of the judgement examined the issue of speculative investors and held that determining whether an allottee is speculative is a fact-specific inquiry guided by the parties' intention. Key indicators include the terms of the contract, number of units purchased, presence of assured returns or buyback clauses, the stage of the project at the time of investment, and the existence of alternatives offered in lieu of possession. The Court emphasised that the intent to obtain **possession of a home** is the essential hallmark of a genuine homebuyer..

"18.1. The determination of whether an allottee is a speculative investor depends on the facts of each case. The inquiry must be contextual and guided by the intent of the parties. Indicative factors include:

(i) the nature and terms of the contract;

(ii) the number of units purchased;

(iii) presence of assured returns or buyback clauses;

(iv) the stage of completion of the project at the time of investment; and

(v) existence of alternative arrangements in lieu of possession. Possession of a dwelling unit remains the sine qua non of a genuine homebuyer's intent.

Speculation in real estate and Pioneer Urban

18.2. The problem of speculative misuse of real estate agreements has long been recognised. Such speculative arrangements artificially inflate demand, fuel asset bubbles, and prejudice genuine buyers. Unlike financial markets – where speculation may sometimes serve a liquidity function – speculation in residential housing undermines stability, fairness, and the very object of housing development. **Schemes of assured returns, compulsory buybacks, or excessive exit options are in truth financial derivatives masquerading as housing contracts.** These arrangements enable developers, on the one hand, to mislead gullible individuals, and seasoned investors, on the other, to 'jump ship'

when the market turns or to hold developers to ransom by invoking the IBC as a coercive recovery mechanism, thereby creating a situation of 'heads I win, tails you lose'. This Court, in ***Madhubhai Amathalal Gandhi v. the Union of India***, while deprecating speculative activities in the stock market, strongly cautioned against such distortions, observing: "These mischievous potentialities inherent in the transactions, if left uncontrolled, would tend to subvert the main object of the institution of stock exchange and convert it into a den of gambling which would ultimately upset the industrial economy of the country".

18.3.This Court in ***Pioneer Urban Land and Infrastructure Ltd v. Union of India*** (supra), while upholding the constitutional validity of the 2018 amendment recognising allottees as financial creditors, drew a crucial distinction between genuine homebuyers and speculative investors. It clarified that speculative investors cannot be permitted to misuse the Code as a debt recovery mechanism. The judgment struck a balance: ensuring representation of genuine homebuyers in the CoC, while shielding developers and projects from being derailed by investors who never intended to take possession.

Home buyer vs Buyer of a commercial unit-

26. A home is far more than a physical structure—it embodies the hopes, security, and dignity of a family. With rapid industrialisation and urban migration, housing demand has surged, yet middle-class homebuyers often suffer deeply: after investing their life savings, they are forced to pay both EMIs and rent, while their promised homes remain incomplete or unconstructed. For ordinary citizens teachers, professionals, salaried employees the inability to obtain timely possession of their only home inflicts significant emotional, financial, and dignitary harm.

27. Recognising this, the Hon'ble Supreme Court has consistently held that the **right to shelter is a fundamental right under Article 21**, as affirmed in *Samatha* and

Chameli Singh. This right includes not merely a roof, but adequate living space, essential civic amenities, and conditions necessary for human growth and dignity. Housing, therefore, cannot be equated with speculative commercial transactions. To treat homes like tradeable financial assets or speculative instruments would undermine the constitutional protection afforded to shelter. The State carries a constitutional duty to ensure that homebuyers are not exploited and that real estate projects are completed on time. It must curb speculative practices and the parallel cash economy that distort housing markets and harm genuine home-seekers. Ultimately, timely possession of a home is not a commercial expectation but a constitutional imperative flowing directly from the right to life.

28. It is pertinent to note the fundamental distinction between a homebuyer and a purchaser of a commercial or industrial unit. The right to shelter has been recognised by the Hon'ble Supreme Court as an intrinsic component of the right to life under Article 21 of the Constitution, and therefore occupies a higher constitutional pedestal. The legislative intent underlying the RERA Act and the subsequent introduction of the Explanation to Section 5(8)(f) of the IBC was to extend statutory protection to such genuine homebuyers whose life savings are invested for securing residential shelter. Conversely, a purchaser of a commercial, industrial, or investment-oriented unit operates squarely within the domain of the right to profession or trade under Article 19(1)(g), which is an economic right and not a facet of the right to life. Such purchasers ordinarily enter into transactions for business purposes, profit generation, or commercial exploitation, and cannot claim parity with homebuyers who seek a dwelling. Therefore, the statutory deeming fiction applicable to homebuyers under Section 5(8)(f) of the Code cannot be automatically extended to purchasers of industrial or commercial premises, whose rights and risks arise from commercial undertakings. The Applicant, having invested in an industrial unit with an assured return arrangement, thus stands on a footing markedly different from a homebuyer, and cannot invoke the protections designed for the latter class.

29. Further our attention has been drawn more particularly towards the para 18.4.6 which is reproduced her under-

> "18.4.6. *However, it must be clarified that the distinction between speculative investors and genuine homebuyers is relevant only at the stage of initiation of CIRP. Such allottees are not barred from filing claims for the principal amount invested, or from pursuing remedies before other fora in accordance with law."*

30. The argument as advanced by the learned counsel of the applicant that in view of the above the applicant be classified as financial creditor appears to be wholly misconceived. In paragraph 18.4.6 of the said judgment, the Hon'ble Supreme Court has merely clarified that the distinction between "speculative investors" and "genuine homebuyers" is relevant only at the stage of initiation of CIRP, and that even a speculative investor is not barred from subsequently filing a claim for the principal amount invested. Nowhere does the Hon'ble Supreme Court expand the definition of "homebuyer," nor does it permit an investor in a commercial, industrial, warehousing, or investment-oriented project, including speculative investors to be treated as a Financial Creditor for the purposes of Section 5(8)(f) of the IBC.

31. The deeming fiction under Section 5(8)(f) expressly applies only to allottees of a "real estate project" as defined under Sections 2(d) and 2(zn) of the RERA Act, which concerns the development of apartments or plots for the purpose of habitation, thereby preserving the legislative intent to protect individuals seeking shelter a facet of Article 21. Investors who purchase commercial or industrial premises for business, trade, warehousing, manufacturing, or assured returns fall squarely outside this category. The Hon'ble Supreme Court did not, at any stage, recognise commercial unit purchasers as homebuyers nor extend IBC protections meant for residential allottees to such commercial investors. Therefore, the Applicant, being a purchaser of an industrial unit with an assured return mechanism, cannot seek to rely upon Mansi Brar (supra) to claim classification

as a Financial Creditor under Section 5(8)(f). The IRP has already admitted the Applicant's claim under Other Creditors, which is entirely consistent with the Supreme Court's direction.

32. For the reasons stated above, this Tribunal concludes that the Applicant's claim does not qualify as a "Financial Debt" under Section 5(8) of the IBC and thus the Applicant is not a Financial Creditor. The prayer seeking declaration of the Applicant as a 'Financial Creditor' accordingly is **rejected** and the IRP's decision to classify the Applicant under 'Other Creditors' is **affirmed**.

33. The IA is accordingly, **dismissed** and **disposed of.** No orders as to cost.

Sd/-
Charanjeet Singh Gulati
Member (Technical)

Sd/-
Mohan Prasad Tiwari
Member (Judicial)