



**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 595 OF 2025

Under Section 60(5), 65 and 75 of
Insolvency & Bankruptcy Code, 2016

Canara Bank

...Applicant

V/s

**Mr. Bhavesh Mansukhbhai Rathod,
The Interim Resolution Professional
& Ors.**

...Respondent

In the matter of

C.P.(IB) No. 383/MB/2023

Reliance Commercial Finance Ltd..

...Financial Creditor

Vs.

Carnival Techno Park Pvt. Ltd.

...Corporate Debtor

Order delivered on: 04.03.2025

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances:



For the Applicant : Zarir Bharucha a/w. Prakash
Shinde, Nishit Dhruva, Rishi
Thakur, Niyati Merchant,
Ruchita Jain i/b MDP Lega

For the Respondent : Mr. Rohit Gupta, Ld. Counsel
for R-1, Mr. Gaurav Joshi, Ld.
Sr. Adv a/w Mr. Kunal Mehta,
Ld. Counsel for Respondent
Nos. 3 and 4

ORDER

1. This Application IA 595/2025 is filed by Canara Bank (Applicant), against the Resolution Professional in the CIRP proceedings of Carnival Techno Park Pvt. Ltd. (Corporate Debtor) under Section 60(5), 65 and 75 of The Insolvency and Bankruptcy Code, 2016 ("Code"), seeking following reliefs:

- i. This Tribunal be pleased to allow the present Application;*
- ii. This Tribunal be pleased to take on record and consider the facts and documents mentioned by the Applicant in the present Application;*
- iii. That this Hon'ble Tribunal be pleased to pass orders dismissing the Company Petition No.383 of 2023;*
- iv. That this Tribunal be pleased to pass an order imposing heavy penalty under Section 65 of the Insolvency and Bankruptcy Code upon the Respondents i.e. the Financial Creditor, Corporate Debtor and Resolution Professional;*
- v. That this Tribunal be pleased to pass an order imposing heavy penalty under Section 75 of the Insolvency and Bankruptcy Code upon the Respondents i.e. the Financial Creditor, Corporate Debtor and Resolution Professional;*



- vi. *That this Tribunal be pleased to pass orders directing The Insolvency and Bankruptcy Board of India (“IBBI”) to conduct inquiry regarding ex-facie collusion between the Resolution Professional, RCFL, Corporate Debtor and the Respondent No.4 Prospective Resolution Applicant (“PRA”);*
- vii. *This Tribunal be pleased to pass orders directing a detailed inquiry through appropriate Investigation Agency of Government of India, Serious Fraud Investigation Office (“SIFO”) into the affairs of the Financial Creditor, Corporate Debtor, Resolution Professional and Prospective Resolution Applicant;*
- viii. *pending the hearing and final disposal of the present Application the Respondent No. 1 be restrained from opening and placing the Resolution Plan (if any) before the CoC;*
- ix. *pending the hearing and final disposal of the present Application the Respondent No. 1 be restrained from taking further steps in respect of CIRP of the Corporate Debtor;*
- x. *Pending the hearing and final disposal of the present Application the CIRP of the Corporate Debtor be kept in abeyance.*

2. Reliance Commercial Finance Limited (“RCFL”) had filed a Company Petition under Section 7 of The Insolvency and Bankruptcy Code, 2016 (“IB Code”) being Company Petition (IB) No.383 (MB) of 2023, against the Corporate Debtor, Carnival Techno Park Private Limited (“CTPPL”). The National Company Law Tribunal, Mumbai Bench (“NCLT Mumbai”), vide an Order dated 13th February 2024, admitted the Corporate Debtor into Corporate Insolvency Resolution Process (“CIRP”). The



Respondent No. 1 was appointed as an Interim Resolution Professional (“IRP”) of the Corporate Debtor and is continued as the Resolution Professional of Corporate Debtor.

3. Applicant is a secured financial creditor and has claim of Rs. Rs.116,99,83,474.66 (Rupees One Hundred and Ninety Nine Lakhs Eighty Three Thousand and Four Hundred and Seventy Four and Sixty Six Paise only), to be recovered from the Corporate Debtor and Form C was filed with RP in CIRP of Corporate Debtor. The Respondent No. 1 constituted the Committee of Creditors (“CoC”) consisting of two Financial Creditors viz., RCFL and Canara Bank, the Applicant as Secured Creditor herein. In the constituted CoC, the Applicant has 28.24% of vote share and RCFL has 71.76% voting right in CoC (due to admission of their claim of Rs.294.3 Crores, alleged to be inflated).
4. The Applicant has arrayed Mr. Prasanth Narayanan, Member of Suspended Board of Director Carnival Techno Park Pvt. Ltd. as Respondent No. 2; Amit Dangi, Director, Reliance Commercial Finance Ltd. as Respondent No. 3; and Authum Investment & Infrastructure Limited as Respondent No. 3.
5. It is case of the Applicant that the Respondent No. 1 in collusion with the other Respondents is running the CIRP process, which is not in the interest of the other Creditors/stakeholders, Corporate Debtor including the Applicant, and after realizing that for the purported loan of Rs.75,00,00,000/- (Rupees Seventy-five Crores Only) of RCFL, the Respondent has mentioned claim of Rs.294.30 Crores, the Applicant immediately requested the Respondent No. 1 to provide claim amount break up on the basis of which the claim of RCFL is grossly admitted for a sum of Rs.294.30 Crores during the first CoC meeting held on 12th March 2024.



- 5.1. Thereafter Applicant filed an Interlocutory Application No.1698 of 2024 (“said IA”) for necessary orders and directions against the Respondent No.1 to provide particulars of alleged claim of the RCFL, and copies of documents submitted by RCFL in support of its alleged claim, which was rejected by this Tribunal vide an Order dated 05th June 2024. The Appeal filed against the said order before Hon’ble NCLAT was withdrawn as the Applicant had got the copies of the relevant documents which were requested for, from the IRP and which was subject matter of appeal.
- 5.2. The Member of Suspended Board of Directors had also filed an Appeal being Appeal No.495 of 2024 challenging the Admission Order dated 13th February 2024 before the Hon’ble NCLAT, inter-alia, on the grounds that (a) The Financial Creditor has never disbursed the loan amount to the Corporate Debtor; (b) There was no financial debt owed by the Corporate Debtor to the Financial Creditor; (c) The amounts were merely adjusted by Journal Entries against certain amounts which were outstanding to group companies and related of RCFL and Reliance Money Solutions Pvt. Ltd. (“RMSPL”) and Reliance Securities Limited (“RSL”). There was no actual disbursement by RCFL to Corporate Debtor or the person nominated by it in letter dated 20th January 2017, and other grounds as more particularly set out in the said Appeal. The Hon’ble NCLAT considering the case of the Appellant (Member of suspended Board of Directors) vide Order dated 13th March 2024, had granted stay on issuance of Form-“G”, however, the said appeal came to be withdrawn without assigning any reason which shows collusion between Corporate debtor and



Respondent No.4 to defraud and defeat the legal right of secured financial creditor Applicant, Canara Bank.

5.3. The Applicant intervened in the said Appeal No.495 of 2024, filing Intervention Application, and found that the documents requested from the Respondent No. 1 are forming part of the said Appeal No.495 of 2024.

5.4. The latest balance sheet, provided to Applicant No. 1 by the Corporate Debtor, does not reflect name of the RCFL as financial creditor from Financial Year 2020-21 save and except that of the Applicant's herein as secured financial creditor. Without prejudice, assuming RCFL had sanctioned loan to Corporate Debtor, an addendum to sanction letter dated 16th January 2017 seems to have been executed among CTPPL and Asian Business Connections Private Limited ("ABCPL") with Reliance Capital Ltd acting as confirming party agreeing to that the said addendum shall form an integral part of the original sanction letter dated 16th January 2017 issued by the then RCL (now RCFL) and shall be read conjointly. Through the said addendum the CTPPL of the first part shall have the right to assign the subsisting loan with accrued interest as per the sanction letter dated 16th January 2017 to any of its group entity i.e. Asian Business Connections Private Limited ("ABCPL") or its subsidiaries. It was further agreed that the RCL (now RCFL) as confirming party acknowledges that CTPPL be discharged from its obligations of the said sanction letter dated 16th January 2017. In line with the said arrangement, it seems that the liability of the Corporate Debtor towards RCFL, was assigned and taken over by Asian Business Connections Private Limited("ABCPL") w.e.f. 30th



September 2020, and thus after the financial year 2020, CTPPL ceased to be debtor to RCFL, and the same is evident after financial year 2020. CTPPL is not showing the purported liability toward RCFL in its book of account. The said addendum was produced /exhibited by CTPPL before the NCLAT in the appeal preferred by them. In addition to this, the applicant has obtained the Balance sheet of ABCPL for the Financial Year 2019- 20 onwards till Financial Year 2021-22 and it is observed that RCFL's loan was not reflecting in ABCPL balance sheet till 2019-20, but, from 2020-21 onwards RCFL loan is reflected in the Balance Sheet(s) of ABCPL.

5.5. The Applicant submits that RCFL was/is not a financial Creditor for CTPPL. Nonetheless, since liabilities are assigned to, and taken over by ABCPL w.e.f. 30th September 2020, the Corporate Debtor was not the Debtor to RCFL. This is evident from the credit facility report issued by NeSL dated 02.01.2025 with respect to CTPPL in which the only outstanding credit facility against CTPPL is that of Applicant and no other credit facility of any other lenders is reflecting including that of RCFL or Respondent No,4.

5.6. It is also pertinent to note that CTPPL in its book of account was showing the loan from RCL (now RCFL) as unsecured debt whereas RP Respondent No.1 has admitted the claim of RCFL as secured financial creditor. RCFL was/is not the secured financial Creditor, much less the Creditor to CTPPL. Respondent No. 1 as Interim Resolution Professional ('IRP'), and continued IRP as Resolution Professional ('RP') has not even collated, verified the alleged charge created in RoC against CTPPL or not even cared to peruse the audited Balance



sheets of CTPPL from MCA website before classifying the claim of Respondent No.4, as secured financial creditor. The objections raised by Applicant in the CoC meeting have also not been considered and respondent No. 1 has turned blind eye to these objections and has continued to treat the Respondent No.4 as secured financial creditor by taking refuge of the order dated 13th February 2024, passed by this Tribunal admitting the CTPPL in CIRP and the sanction letter dated 16th January 2017.

- 5.7. The Applicant submits that from the facts, documents and circumstances of the present case, it appears that RCFL, in collusion of the Corporate Debtor, Respondent No.4 and Respondent No. 1, have purportedly initiated the proceedings under the Insolvency and Bankruptcy Code 2016 and appointed Respondent No. 1 as Interim Resolution Professional % ('IRP'), and continued IRP as Resolution Professional ('RP') to defraud and defeat the legal rights of the Applicant as the secured financial creditor, creditors, statutory authorities, employees and stakeholders, and to enrich it's position and to wrongfully get undue benefits and cause prejudice and loss to the stakeholders.
6. Respondent No. 1 has filed Affidavit in Reply dated 11.2.2025 stating that the case of the Applicant is hit by Principles of Res Judicata, as this Tribunal has already dismissed IA 1698 of 2024 seeking supply of certain documents in relation to claim filed by RCFL and admitted by him holding at Para 11 of that order dated 5.6.2024 that we do not consider it appropriate to issue any direction in relation to prayer seeking documents relating to claim of Reliance Commercial Finance Limited. Further, the liberty



sought vide prayer C was rejected as meaningless in view of rejection of prayer for supply of documents. The Applicant has filed an appeal against order dated 5.6.2024 was withdrawn, nonetheless, the said Appeal was also barred by limitation. It is further submitted that the Applicant had not filed any appeal challenging the Order dated 13.2.2024 admitting the Corporate Debtor into CIRP. The issues raised by the Applicant in this Application have already been taken by the Corporate Debtor at the time of hearing of Captioned Company Petition and have been examined by this Tribunal at the time of passing of Order dated 13.2.2024. Respondent No. 3 and Corporate Debtor alongwith other group companies has entered into Deed of Hypothecation, and after perusing the documents and records available, Respondent No. 3 was declared as secured creditor of the Corporate Debtor. Nonetheless, if the Applicant was at all aggrieved by the Order dated 13.2.2024, it could have preferred Appeal, instead almost after a period of 1 year from initiation of CIRP of the Corporate Debtor, the Application, one of the financial creditor has malafide intention to derail the CIRP merely because the Applicant has minority voting share in CoC of the Corporate Debtor.

7. Respondent No. 4 has filed Affidavit in Reply dated 10.2.2025 stating that there is no provision in law which contemplates that a Petition which is admitted as per the provisions of the Insolvency & Bankruptcy Code, 2016 ("IBC"), can be subsequently dismissed. This can only be done by Hon'ble NCLAT in its appellate jurisdiction. An application seeking recall of an order can be entertained by this Tribunal only in very limited circumstances set



out in various judicial pronouncements that have interpreted Rule 11 of the NCLT Rules and the jurisdiction of the NCLT to recall its own orders. An application for recall of an order passed in exercise of jurisdiction under Section 7 of the Insolvency and Bankruptcy Code ("the Code") is not maintainable on grounds such as: (a) re-visiting the matter on merits such as a contention that there was no disbursal; or (b) the Corporate Debtor having allegedly assigned its debt to a third party; or (c) the Respondent No.4 being an unsecured creditor. The conduct of the Applicant, after passing of Order dated 13.2.2024 in the CIRP proceedings, demonstrates that it has accepted the validity of the Order dated 13th February 2024. Consequently, once a person participates in the CIRP, that person is in law and in fact, estopped from questioning the legality of the Order pursuant to which the Corporate Debtor was admitted into CIRP. In the present case, the Applicant has clearly waived any objection to the Order dated 13th February 2024. In any event, it is immaterial that the balance sheet of the Corporate Debtor may not have mentioned RCFL or that the Corporate Debtor had asserted an alleged Addendum to Sanction Letter dated 16th January 2017. All these issues were raised before this Hon'ble Tribunal and it is after considering the same that the Petition has been admitted. The addendum dated 16.10.2017, relied upon by the Applicant, was executed by Reliance Capital Limited, who had no locus to execute the same since the scheme of demerger pursuant to which the debt had already stood transferred in favour of RCFL, as the Scheme for demerger was confirmed by Hon'ble Bombay High Court vide its Order dated 9.12.2016 and INC 28 was filed with RoC on 24.3.2017. Hence, the scheme of demerger became effective much before the purported Addendum.



Post this date, RCL had no entitlement to recover the debt from the CD which stood assigned to RCFL. Hence, on 16th October 2017, RCL had no legal right to enter into the purported Addendum. Further, RCFL is not a party to this addendum. On every count, the purported Addendum does not bind Respondent No.4.

8. Heard the learned counsel for both sides and perused the records.

8.1. The Applicant has sought, principally (a) taking on record the facts averred in the present application; and (b) recall the Admission Order dated 13.2.2024. The remaining prayers are consequential to the prayer for recall of Order dated 13.2.2024.

8.2. The Applicant has argued that RCFL's loan was assigned by the Corporate to Asian Business Connection Private Limited with written approval by the lender, RCFL (now known as Respondent No. 4) and the said assignment is confirmed by both Resolution Professional and the representative of Corporate Debtor as is evident from the eight CoC meeting minutes. Since, no debt was existing in Corporate Debtor's books as on the insolvency commencement date and no debt exists thereafter, no insolvency at the behest of RCFL could continue. The eight CoC meeting minutes states the stand of RP as *"RP reiterated that the loan was transferred from Carnival Techno Park Private Limited (CTPPL) to Asian Business Connections Private Limited (ABCPPL) without obtaining a No Objection Certificate (NOC) from the lender, RCFL. Additionally, NCLT vide its admission order dated 13.2.2024 has also clearly established debt of RCFL and it qualified to be a financial debt. Apart from this, RP also clarified that in the reply given to Canara bank, he has also highlighted that as per IND AS, a loan liability is recorded in the books when the entity becomes contractually obligated to repay the loan. A loan liability is recognized when there is a contractual agreement between the lender and the*



borrower that obligates the borrower to repay the loan, either immediately or in the future. Since the loan has been admitted under the CIRP process, there exists a contractual agreement between the lender and the borrower and accordingly the liability has been recorded in the books of accounts. Hence, in the latest B/S reversal entries was done.”. Further, the eight CoC meeting minutes states the stand of representative of Corporate Debtor as “Mr Abhishek Vyas representative from Corporate Debtor addressed that as the loan of RCFL was assigned to ABCPL, therefore the amount of loan given to holding company (as per Note No. 11 of the BS of 2024) has been reduced in the Balance Sheet of the year ended 31.3.2023. But now since the loan has been reversed in the books of account of Carnival Techno Park Private Limited for the year ended 31.03.2024, therefore the amount of loan given to holding company has been increased to 178 crores which has been reflected in Note No. 34 of the BS.”

8.3. The Applicant has placed on record (a) Audited Financial Statements of the Corporate Debtor from the financial year 2017-18 onwards; (b) copy of addendum to sanction letter dated 16.1.2017; (c) Balance sheet of ABCPL from the financial year 2019-20 onwards; and (d) Credit facility report issued by NeSL dated 2nd January, 2025 with respect to Corporate Debtor. Since, these documents are essential to examine the issue raised by the Applicant and some of them were not available before us at the time of adjudication in CP (IB) 383 of 2023, we are of considered view that these documents can be taken on record, and are accordingly taken on record.

8.4. The power of this Tribunal to recall its order is dealt in the decision of Hon’ble Supreme Court in the case of ***Greater Noida v. Prabhjit Singh Soni (2024) 6 SCC 767*** at para 50 thereof, which reads as under –



“..... Therefore, even in absence of a specific provision empowering the Tribunal to recall its order, the Tribunal has power to recall its order. However, such power is to be exercised sparingly, and not as a tool to re-hear the matter. Ordinarily, an application for recall of an order is maintainable on limited grounds, inter alia, where (a) the order is without jurisdiction; (b) the party aggrieved with the order is not served with notice of the proceedings in which the order under recall has been passed; and (c) the order has been obtained by misrepresentation of facts or by playing fraud upon the Court / Tribunal resulting in gross failure of justice.”

8.5. This Tribunal is vested jurisdiction to adjudicate an application filed u/s 7 of the I B Code by a Financial Creditor for initiation of the Corporate Insolvency Resolution Process against a Corporate Debtor, and this Tribunal passed the Order dated 13.2.2024 in exercise of that jurisdiction, hence the said order cannot be said to be without jurisdiction. Further, it is trite law that all creditors of a Corporate Debtor are not required to be served with the notice of proceedings in Section 7 of the I B Code, hence the Applicant was not required to be served any notice before passing of Order dated 13.2.2024. The Applicant's prayer for recall is premised on the ground that the Order dated 13.2.2024 was obtained by misrepresentation of facts and by playing fraud upon this Tribunal resulting in gross failure of justice.

8.6. This Tribunal had passed Order dated 13.2.2024 after analysing the facts placed before it and the reasons for conclusions are summed in Para 29 to 31 of that Order, where in the issue of disbursal of debt and privity of contract were examined. It is case of the Applicant that this Tribunal has not given finding in relation to effect of Addendum to Sanction Letter dated 16.1.2017 pursuant



to which the debt was assigned to ABCPL, which was a material fact having escaped the attention of this Tribunal. Para 27 of the said Order records the submission of the Corporate Debtor that *“Vide the Additional Affidavit the Corporate Debtor submitted that the ‘debt’ forming subject matter of the present Application was assigned by the Corporate Debtor to Asian Business Connections Pvt. Ltd. based on a right of assignment given to the Corporate Debtor under an alleged Addendum dated 16.01.2017. It is stated that no amount is shown as payable by the Corporate Debtor under the Facility Agreement (sic) for the financial year ending on 31.03.2021 since this debt was assigned to Asian Business Connections Pvt. Ltd. with effect from 30.09.2020.”*

8.7. On perusal of the records of CP (IB) 383 of 2023, we find that the Audited financial statements for the year ended on 31.3.2018, 31.3.2019 & 31.3.2020 of the Corporate Debtor were placed on record by RCFL, and the Audited financial statements for the year ended on 31.3.2021 of the Corporate Debtor were placed on record by Corporate Debtor along with copy of Addendum Agreement dated the 16th of January 2017.

8.8. The Applicant's submission is that the Audited financial statements for year ended on 31.3.2021 does not reflect the debt owed to RCFL. From this Financial Statement for the year ended 31.3.2021, it is clear that there was a loan owed to RCFL (stated to be owed to RCL in financial statement) amounting to Rs. 65,61,04,498/- as on 31.3.2019 & 31.3.2020 under Note 18 as *“Unsecured Loan”*, and as NIL as on 31.3.2021, which is clarified in Note 2 of Note 18 stating that *“2) As per the addendum letter to the sanction letter dated 16 January 2017 the long term loan taken by the Company from Reliance Capital Limited alongwith interest payable as on 30 September 2020 has been assigned to Asian Business Connections Private*



Limited w.e.f 30 September 2020. The Company has not provided for the interest expense during the current year till 30 September 2020. (the date of the transfer of loan to Asian Business Connections Private Limited)”. The Applicant has argued that this proposition escaped attention of this Tribunal while deciding whether there existed any debt owed to RCFL.

8.9. At the outset, the documents, placed before a Court or quasi-judicial authority in a proceeding before it, are deemed to be taken note and it cannot be said that these documents had escaped attention of this Tribunal while delivering its Order in the said proceedings merely because such document or plea is not dealt with in the Order. It is pertinent to refer the Clause 3 of the Addendum to Sanction Letter dated 16.1.2017 along with the Audited Financial Statement of the Corporate Debtor for the year ended on 31.3.2021. The Clause 3 of the Addendum states that :

“That the Party of the First Part shall have the right to assign the subsisting loan with accrued interest as per the Said Letter to any of its group entity i.e. Asian Business Connections Private Limited or its subsidiaries and/ or its associates/ affiliates at the sole discretion of ABCPL (hereinafter referred to "Assignee" in case if the below event triggers which is more particularly set out herein:

- i. in case, the First Party decides to sell the assets of the Company;*
- or*
- ii. in case, the Second Party decides to sell the shares of the Company.”*

8.10. The assignment of debt pursuant to power vested in Corporate Debtor is stated to have taken place on 30.9.2020. Clause 3 vests such power in two scenarios i.e. (i) in case, Corporate Debtor decides to sell its shares, or (ii) ABCPL decides to sell its



shareholding in Corporate Debtor. We had noted that the Audited Financial Statements for the year ended 31.3.2021 have been drawn on going concern basis, and the value of Properties has been reported at its carrying value, which is permissible under IND AS only in cases where the management has not resolved to put assets for its sale. Further, the shareholding of RCFL is reported to be held by ABCPL as on 31.3.2020 as well as on 31.3.2021 and these financial statements were signed by the directors appointed by ABCPL, thus not reflecting intent of ABCPL to dispose of its shareholding in Corporate Debtor (Nonetheless, ABCPL continues to remain holding company of Corporate Debtor as per financial statement for the year 2023-24 also). Further, the case pleadings do not reveal that the Corporate Debtor placed on record any submission demonstrating arising of conditions contemplated in Clause 3 of the Addendum. All these facts were before this Bench and duly considered. Accordingly, this Bench did not take note of fact of assignment and passed the Order dated 13.2.2024 on the basis of pleadings before it. The debt, in question, is admitted in the audited financial statements of the Corporate Debtor for the year ended on 31.3.2018 onwards upto 31.3.2020, where after it ceased to be reported on account of purported assignment of debt to ABCPL pursuant to authorisation stated to be given to Corporate Debtor in terms of Addendum dated 16.1.2017. The Applicant can be said to be aware of the said loan, as appearing in the audited financial statement of the Corporate Debtor from 31.3.2018 onwards even prior sanction of its credit facilities to the Corporate, as clause 13 of Other Terms & Conditions appended to its Sanction Letter for Lease Rental Discounting facility provides for supply of *“Audited Financial Statement along with Audit report of the company as*



well as Due. Diligence Certificate within seven months from the closure of the financial year. Penal interest shall be charged @1%p.a.”.

8.11. This takes us to suppression of fact that RCFL had not reported the said Credit facility to NeSL, as the same is not reflecting in their records. However, we find that RCFL had placed on record a CIBIL report dated 23.1.2023 which duly records the particulars in relation to debt in question. Accordingly, we are of considered view that it cannot be said that the Order dated 13.2.2024 was obtained by fraud or misrepresentation. Hence, this Tribunal cannot exercise its power to recall the said Order dated 13.2.2024. It is trite law that this Tribunal does not have power to review its own Order. Accordingly, it cannot proceed to decide the issue again at this stage whether there was disbursal of loan so as to constitute a financial debt after having dealt with this aspect vide Para 30 of the Order.

8.12. The principal grievance of the Applicant seems to be treatment of debt of RCFL as secured facility causing prejudice to its interest as it reduces its claim to the liquidation value. The loan facility agreement dated 20.1.2017 stipulated “*Charge on receivables of Inter Corporate Deposit (ICD) of Rs 175 crores between Carnival Techno Park Pvt Ltd and Advantage Overseas Pvt Ltd.*”, however, the Corporate Debtor had reported total short term loans and advances due from related party amounting to Rs. 164.93 lacs as on 31.3.2017. Advantage Overseas Pvt. Ltd. is not listed as Related Party of Corporate in Audited financial statements for the year 2017-18, wherein the corresponding previous year figures for FY 2016-17 are also required to be reported. There is no other grouping on asset side of the Balance Sheet showing such huge receivable. Further, the loan taken from RCL is stated to be unsecured since inception in Corporate Debtor’s audited financial statements. The Statutory



Auditors have certified these financial statements, purportedly after verification of all documents pertaining to such loan facility. It follows therefrom that the security in the form of Inter-Corporate Deposit receivable from Advantage Overseas Pvt. Ltd. contemplated in the sanction letter dated 16.1.2017 and Hypothecation Agreement dated 20.1.2017 is intended to make the lender a secured creditor, but the stipulation contained in these documents in relation to security interest of RCFL over the assets of Corporate Debtor is in contradiction to its audited financial statements and amount of loans & advances stated on assets side therein. This Tribunal, while dealing with the aspect of debt and default, does not adjudicate on whether the debt, in question, is a secured or unsecured. Accordingly, this question is to be determined by Resolution Professional on the basis of claim of a creditor after verification thereof from the records of the Corporate Debtor and consider the aspect of security on the basis of the records of the Corporate Debtor. The Resolution Professional shall give a reasoned finding as to why the audited financial statements of the Corporate debtor recognising the debt of RCFL as unsecured since inception are not reliable and also seek explanation of the then auditor and directors on what basis the said loan was classified as Unsecured in FY 2017-18, 2018-19, 2019-2020. Since, the debt, in question, is alleged to be result of certain journal entries to settle the liability of group companies of the Corporate Debtor owed to group Companies of Reliance Capital Limited (the predecessor), we consider it appropriate to direct the Respondent No.1 to conduct a Forensic Audit in relation to such transactions through the Applicant's empanelled auditor at the cost of the Applicant.



9. In view of the aforesaid directions, this IA 595 of 2025 is partly allowed and disposed of accordingly.

-Sd/-
Prabhat Kumar
Member (Technical)

-Sd/-
Justice V.G. Bisht
Member (Judicial)