



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 4266-4267 OF 2026

COSMIC CRF LIMITED

Appellant(s)

VERSUS

**MYOTIC TRADING PRIVATE LIMITED
& ORS.**

Respondent(s)

WITH

CIVIL APPEAL NO. 6684 OF 2026

O R D E R

1. Since the issues involved in both the captioned appeals are the same, the parties are also the same and the appeals arise from a single corporate insolvency resolution proceeding, those were taken up for hearing analogously and are being disposed of by this common judgment and order.

2. These appeals under Section 62 of the Insolvency and Bankruptcy Code, 2016 (for short, “the IBC”) seek to challenge the

following judgments passed by the National Company Law Appellate Tribunal (NCLAT) :-

i. Judgment and Order dated July 25, 2025 (**'First Impugned Order'**) passed in Company Appeal (AT) (Ins.) No. 859 of 2025 (**'Appeal'**) limited to the extent whereby the NCLAT held the Appellant to be ineligible under Section 29A of IBC and directed for continuation of the Corporate Insolvency Resolution Process by issuance of a fresh Form-G.

ii. Judgment and Order March 12, 2026 (**'Second Impugned Order'**) passed in I.A. No. 4810 of 2025 (**'Recall Application'**) wherein the NCLAT dismissed the application filed by the Appellant seeking recall of the Judgement and Order dated July 25, 2025.

3. These appeals arise from a single Corporate Insolvency Resolution Proceeding (**"CIRP"**) relating to the Corporate Debtor i.e. Amzen Transportation Industries Pvt. Ltd.

4. The appellant is a Prospective Resolution Applicant in the CIRP of the Corporate Debtor and had submitted a Resolution Plan which was under consideration of the Committee of Creditors (**for short, 'CoC'**) when the impugned orders came to be passed.

5. The respondent No.1 is Myotic Trading Pvt. Ltd. (**for short 'Myotic'**) who formed a consortium with the respondent No. 7 i.e. Fortune Global Solution Pte Ltd. (**for short, 'Fortune'**) and it is

the 'Consortium of Myotic and Fortune' which was a rival Prospective Resolution Applicant in the CIRP of the Corporate Debtor. Later Fortune withdrew from the two-member consortium. It was only on account of financial net worth of Fortune that the Consortium qualified as a Prospective Resolution Applicant. With the withdrawal of Fortune from the consortium, Myotic in its individual capacity failed to fulfil the minimum tangible net worth of Rs. 100 crore as required in Form-G.

6. The respondent No. 2 is the Resolution Professional of the Corporate Debtor appointed by the NCLT by order dated 04.05.2022.

7. The respondent No. 3 is the CoC of the Corporate Debtor. The CoC consists of the following members:

i. Respondent No. 4 i.e. Prudent ARC Ltd. (**'Prudent'**) having 41.12% voting rights in the CoC.

ii. Respondent No. 5 i.e. UCO Bank (**'UCO'**) having 53.31% voting rights in the CoC.

iii. Respondent No. 6 i.e. WLD Investments Pvt. Ltd. having 5.57% voting rights in the CoC.

8. It appears that this is a second round of litigation before this Court.

9. In the first round of litigation, the NCLAT in Company Appeal (AT) (Ins.) No. 859 of 2025 was concerned with the correctness of the order dated 29.05.2025 passed by the NCLT, New Delhi, dismissing Myotic's application bearing IA No. 1240/2025 in CP (IB) No.3/ND/2020 on the sole ground of being 'not maintainable' for want of *locus* in view of Fortune withdrawing from the two-member consortium.

10. As such, in Company Appeal (AT) (Ins.) No. 859 of 2025, the sole issue was with respect to Myotic's *locus*. On this issue, the NCLAT by way of the first impugned order decided against Myotic. With the aforesaid conclusion, the appeal stood concluded and nothing further therein remained to be adjudicated.

11. Despite coming to the aforesaid conclusion and dismissing the appeal, the NCLAT in the first impugned order went ahead and held the appellant also to be ineligible under Section 29A of IBC.

12. Since the only two remaining Prospective Resolution Applicants being Myotic and appellant were held to be ineligible,

thus, the NCLAT directed for continuation of CIRP from the stage of issuance of a fresh Form-G.

13. Being aggrieved, the appellant preferred an appeal against the first impugned order to the extent it held the appellant to be ineligible under Section 29A and directed for continuation of CIRP by issuance of fresh Form-G. This Court by order dated 04.08.2025 permitted the appellant to approach the NCLAT to point out the errors in the first impugned order, more particularly in paras 105-106 respectively.

14. The operative portion of the order dated 04.08.2025 reads thus:-

‘2. Today, the entire debate before us was on Section 29A of the Insolvency and Bankruptcy Code, 2016 (for short “the IBC, 2016”).

3. According to the learned counsel appearing for the appellant, the findings recorded in paragraphs 105 and 106 respectively are incorrect and contrary to the records available.

4. If that be so, the appellant should go before the NCLAT and point out the factual errors to the Appellate Tribunal.

5. Since, this has something to do with factual errors, the bar of review should not come in the way of the NCLAT.

6. At this stage, Mr. Mukul Rohtagi and Mr. C.A. Sundaram, the learned counsel appearing for the respondents vehemently submitted that in no manner the findings recorded in the two paragraphs, referred to above, could be termed as perverse or contrary to the record.

7. In view of the aforesaid, this appeal stands disposed of.

8. Pending application(s), if any, stands disposed of.”

15. Pursuant to the liberty granted by this Court, the appellant filed an application being I.A. 4810 of 2025 seeking recall of the first impugned order.

16. The NCLAT by order dated 25.09.2025 acknowledged that the appellant had been declared to be ineligible under Section 29A without giving an opportunity to the appellant to file a pleading on the said issue. It granted two weeks' time to the appellant to file its reply.

17. Accordingly, the appellant filed a detailed reply pointing out as to how it is eligible and is not disqualified under Section 29A of the IBC, 2016.

18. The NCLAT, however, rejected the appellant's application *vide* the Second Impugned Order dated 12.03.2026 and held the appellant to be ineligible under Section 29A(c) and Section 29A(j) of the IBC, 2016.

19. The substantial question of law involved in the present case revolves around the interpretation of Section 29A(c) of IBC.

RELEVANT LIST OF DATES

S.No.	Date	Particulars
1.	21.12.2021	Appellant was incorporated as a Company. Aditya Vikram Birla is the Managing Director of the appellant and is in control and management of the appellant.
2.	04.05.2022 ‘Commencement of CIRP’	Corporate Debtor was admitted into CIRP.
3.	20.04.2024	Form G was published in relation to CIRP of the Corporate Debtor. As per Form- G, the minimum tangible net worth of Rs.100 crore was the eligibility criteria for a person to take part in the CIRP of the Corporate Debtor.
4.	06.05.2024	Appellant submitted its Expression of Interest (‘EOI’) along with an undertaking expressly stating that the appellant is not ineligible under Section 29A of IBC.
5.	09.05.2024	A Consortium Agreement was executed between Myotic & Fortune to form a Consortium for participating in the CIRP of the Corporate Debtor.
6.	20.05.2024	Final List of the Prospective Resolution Applicants was issued. Appellant was included in the Final List of Prospective Resolution Applicants. No objection was raised by any stakeholder regarding eligibility of the appellant.
7.	21.06.2024	Appellant submitted its affidavit under Section 29A of the IBC.
8.	28.06.2024 ‘Plan Submission Date’	The appellant submitted their Resolution Plan.

9.	16.08.2024	CoC in its 47th meeting decided to conduct challenge mechanism process amongst the Prospective Resolution Applicants for the CIRP of the Corporate Debtor.
10.	19.08.2024	Before conducting the challenge mechanism process, AHSK & Co. who are Chartered Accountants was appointed by the RP to conduct checks in relation to Section 29A of IBC for the Prospective Resolution Applicants. AHSK & Co. conducted their checks and confirmed that the appellant has no connection with the Corporate Debtor and is eligible under Section 29A of IBC.
11.	22.08.2024	3 rounds under the Challenge Mechanism process were Concluded and after conclusion of the 3 rounds of challenge mechanism process only two Prospective Resolution Applicants were remaining namely: i. Appellant and ii. Consortium of Myotic and Fortune
12.	27.08.2024	At the fag end of the challenge mechanism process a purported whistleblower namely Energy Watchdog issued a letter to Myotic, <i>inter alia</i> , alleging that the appellant is not eligible for submitting Resolution Plan under Section 29A of IBC.
13.		Various legal opinions were obtained by Myotic and Prudent regarding eligibility of the appellant under Section 29A.
14.		RP in consultation with CoC obtained opinions from Chartered Accountant Firms regarding eligibility of the appellant.
15.	19.10.2024	Appellant was declared by RP and CoC as ineligible for submission of resolution plan under 29A (a), (c), (h) and (j) of IBC.

		Appellant was not given a copy of these reports and was never provided an opportunity to deal with the allegations made in such reports.
16.	05.11.2024	IA 5392/ND/2024 was filed by appellant challenging the decision of CoC declaring them as ineligible under Section 29A of IBC.
17.	09.01.2025	NCLT set aside CoC's decision of 19.10.2025 and remanded the matter back to the CoC for fresh consideration after giving an opportunity of being heard to the appellant. The operative portion of the order reads as thus: <i>'Accordingly, we are inclined to allow Prayer (a) and Prayer (b) of the Applicant and remand the matter to the Committee of Creditors (CoC) for reconsideration, ensuring adherence to the principles of natural justice and equity. The Applicant shall be afforded an opportunity to provide its justification in light of the latest report on the eligibility criteria. Consequently, the present application, I.A. No. 5392 of 2024 in C.P. (IB) No. 3/ND/2020, is partly allowed and accordingly disposed of.'</i>
18.	20.01.2025	Appellant filed its written response with the RP and CoC in respect of its eligibility under Section 29A of IBC.
19.	18.02.2025	RP sent the reply of the appellant to Priyanka Sharma & Associates ('PSA'), a Chartered Accountant Firm to give their final opinion on the eligibility of appellant under section 29A. PSA gave its final report opining the appellant to be ineligible under Section 29A.

20.	03.03.2025	RP thereafter sent the final report of PSA to a Senior Advocate for his legal opinion. The Senior Advocate after perusing all the documents opined the appellant to be eligible under Section 29A.
21.	06.03.2025 ‘CoC Holding Appellant Eligible’	CoC unanimously declared the appellant to be eligible under Section 29A of IBC.
22.	07.03.2025 ‘Withdrawal by Fortune from Consortium’	Letter/Email was sent by Fortune to RP categorically stating that Fortune had withdrawn themselves as the member of the consortium and their participation in the CIRP shall be deemed as withdrawn.
23.	10.03.2025	Application being IA 1240/ND/2025 was filed by Myotic in its individual capacity praying for setting aside the CoC’s decision of 06.03.2025 declaring appellant to be ineligible under Section 29A of IBC.
24.	17.03.2025	The NCLT after hearing the parties in IA 1240/ND/2025, directed the Respondents to file their reply limited to the issue of maintainability of IA 1240/ND/2025. The issue of maintainability was raised as it was Consortium of Myotic and Fortune which was the Prospective Resolution Applicant and the Application filed by Myotic in its individual capacity was not maintainable.
25.	27.05.2025	Myotic filed an IA/2548/ND/2025 seeking, <i>inter alia</i> , direction for re-constitution of CoC and appointment of a new IRP. Appellant was not a party to the said application, and no relief was sought against the appellant.

26.	28.05.2025	NCLT dismissed IA/2548/ND/2025 observing that Myotic does not have any <i>locus</i> to file the application.
27.	29.05.2025	NCLT dismissed IA.No.1240/2025 as Myotic was not able to satisfy the eligibility criteria of minimum tangible net worth of Rs. 100 Cr after the withdrawal of Fortune from the consortium. Thus, as the applicant could not be considered as a Prospective Resolution Applicant, the application was dismissed for want of <i>locus</i>.
28.	01.06.2025 ‘Subject Appeal’	Myotic filed Company Appeal (AT)(Ins.) 859 of 2025 against order dated 29.05.2025. Since IA.No.1240/2025 was dismissed solely on the ground of <i>locus</i>, thus, the prayer in the appeal was to refer IA.No.1240/2025 back to the NCLT for adjudication on merits.
29.		Myotic also filed a Company Appeal (AT)(Ins.) No. 877 of 2025 against the order dated 28.05.2025. Appellant was not a party in the said Appeal.
30.	25.07.2025 [‘First Impugned Order’]	NCLAT by the first impugned order held that Myotic without its consortium partner cannot be considered as Prospective Resolution Applicant and thus it did not have any <i>locus</i> to challenge the eligibility of another Prospective Resolution Applicant and the appeal was liable to be dismissed to that extent. Despite coming to the aforesaid conclusion and dismissing the appeal, the NCLAT in the first impugned order went ahead and held the appellant also to be ineligible under S. 29A of IBC.

		Since the only two remaining Prospective Resolution Applicants being Myotic and appellant were held to be ineligible, thus, NCLAT directed for continuation of CIRP from the stage of issuance of a fresh Form-G.
31.	04.08.2025 [Round 1 SC Order]	Appellant filed a Civil Appeal No. 9900 of 2025 before this Court challenging the first impugned order to the extent it declared the appellant to be ineligible under Section 29A of IBC and directed continuation of CIRP of the Corporate Debtor by issuance of a fresh Form-G. This Court permitted appellant to approach NCLAT to point out the errors in the first impugned order. The operative portion of the order dated 04.08.2025 reads as thus: <i>‘2. Today, the entire debate before us was on Section 29A of the Insolvency and Bankruptcy Code, 2016 (for short “the IBC, 2016”).</i> <i>3. According to the learned counsel appearing for the appellant, the findings recorded in paragraphs 105 and 106 respectively are incorrect and contrary to the records available.</i> <i>4. If that be so, the appellant should go before the NCLAT and point out the factual errors to the Appellate Tribunal.</i> <i>5. Since, this has something to do with factual errors, the bar of review should not come in the way of the NCLAT.</i> <i>6. At this stage, Mr. Mukul Rohtagi and Mr. C. A. Sundaram, the learned counsel appearing for the respondents vehemently submitted that in no manner the findings recorded in the two paragraphs, referred to above, could be</i>

		<i>termed as perverse or contrary to the record.</i> <i>7. In view of the aforesaid, this appeal stands disposed of.</i> <i>8. Pending application(s), if any, stands disposed of.'</i>
32.	12.08.2025 'Subject Recall Application'	In terms of the liberty granted by this Court, the appellant filed an application being I.A. No. 4810 of 2025 seeking recall of the first impugned order to the extent it declared the appellant to be ineligible under Section 29A and directed the continuation of CIRP by issuing a fresh Form-G.
33.	22.08.2025 'Myotic Affidavit'	During the pendency of I.A. 4810 of 2025, Myotic filed an affidavit before the NCLAT stating that they have no objection if the observations contained in the first impugned order holding appellant to be ineligible and direction in relation to CIRP to proceed from stage of issuance of a fresh Form-G is set aside.
34.	22.08.2025	RP published fresh Form G in the newspaper.
35.	25.09.2025	NCLAT while passing an order in I.A. No. 4810 recorded that the order dated July 25, 2025, declaring the appellant to be ineligible has been passed without giving an opportunity of being heard and directed the appellant to file the reply in relation to its ineligibility under Section 29A withing 2 weeks from the date of the order.
36.	09.10.2025 'Appellant Reply to 29A'	Appellant filed its reply to ineligibility under Section 29A.
37.	10.10.2025 'NCLAT Interim Order'	NCLAT after hearing all the parties directed that the RP should continue with the finalisation of EOI till receipt of the resolution plan, however, resolution plan if any received shall not be opened

		and placed before the CoC without permission from the NCLAT. The operative portion of the order reads as thus: <i>‘22. Thus, it is reflected that this Appellate Tribunal has given opportunity to the Applicant to contest the issue of his ineligibility by filing reply and 27.10.2025 has been fixed for hearing. The RP has also advertised the date of receiving the resolution plans by the PRA’s and last date for the same is fixed as 19.11.2025. The plea of ineligibility of the Applicant is to be reconsidered again by us in view of the reply which he has filed.</i> <i>23. Therefore, keeping in view all the facts and circumstances of the case, we are of the considered view that the ends of justice would meet if the IRP is instructed to continue all exercise with regard to the finalisation of EOIs till the receipt of the resolution plan, however, the resolution plan(s), if any, is received, shall not be opened and placed before the CoC without any further direction of this Tribunal.’</i>
38.	12.03.2026 ‘Second Impugned Order’	NCLAT dismissed I.A. 4810 of 2025 seeking recall of the impugned order and held the appellant to be ineligible under Section 29A (c) and (j) of IBC.

20. In such circumstances referred to above, the appellant is before us with the present two appeals against the order dated 25.07.2025 and 12.03.2026 respectively.

ANALYSIS :-

21. Having heard the learned senior counsel appearing for the parties and having gone through the materials on record, the following question falls for our consideration:-

“Whether the NCLAT erred in holding the appellant to be ineligible under Section 29A(c) and 29A(j) of the IBC?”

22. Section 29A(c) reads as under:-

“29A. Person not eligible to be resolution applicant.

--A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person--

(c) at the time of submission of the resolution plan has an account or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan;

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation. I.--For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares or completion of such transactions as may be prescribed, prior to the insolvency commencement date.

Explanation. II.--For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code.'

23. Section 29A(j) reads as under:-

"29A. Person not eligible to be resolution applicant.

--A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person—

(j) has a connected person not eligible under clauses (a) to (i)

Explanation. I -- For the purposes of this clause, the expression connected person means--

(i) any person who is the promoter or in the management or control of the resolution applicant; or

(ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or

(iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii):

Provided that nothing in clause (iii) of Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression related party shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares or completion of such transactions as may be prescribed, prior to the insolvency commencement date;

Explanation. II.--For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:--

(a) a scheduled bank;

(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;

(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);

(d) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(e) an Alternate Investment Fund registered with the Securities and Exchange Board of India;

(f) such categories of persons as may be notified by the Central Government.'

24. The appellant was declared as eligible under Section 29A of IBC by CoC by 100% voting in its meeting dated 06.03.2025.

25. Prudent having 41.12% of voting in the CoC filed an affidavit before the NCLAT stating that the CoC by 100% voting held the appellant is eligible under Section 29A of IBC.

26. The respondent No. 5 (UCO Bank) having 53.31% voting in the CoC filed an affidavit before the NCLAT stating that the CoC by 100% voting held that the appellant is eligible under Section 29A of IBC.

27. The respondent No. 2 (RP) filed an affidavit stating that the CoC in its commercial wisdom has declared the appellant to be eligible under Section 29A of IBC.

28. At one-point, the respondent No. 1 (Myotic Trading), being a rival PRA – which itself was ineligible – had contested the eligibility of the appellant. However, on 22.08.2025, Myotic filed an Affidavit before NCLAT withdrawing its objection by stating:

‘. . . Myotic Trading has therefore no objection if the observations contained in the judgment dated 25.7.2025 holding Cosmic CRF Ltd. to be ineligible under Section

29A of IBC and the direction relating to CIRP to proceed from the stage of issuance of a fresh Form-G are modified/set aside. . . .’

29. Thus, there is no party in the present appeal who is opposing the prayers of the appellant.

Eligibility of the appellant under Section 29A(c) of IBC

30. The NCLAT has held the appellant to be ineligible under Section 29A(c) for the following reasons:-

REASON 1:

*i. The appellant has been held to be ineligible as on 28.06.2024 (the date when the appellant submitted its R Plan) as there was shortfall/haircut suffered by financial creditors with respect to another company, Cosmic Ferro Alloys Ltd (**‘CFAL’**).*

ii. The connected person of the appellant i.e. Aditya Vikram Birla (Managing Director of the appellant) was a shareholder of CFAL when CFAL was declared as an NPA (on 09.12.2016) and underwent CIRP (on 16.01.2018).

iii. The father of Aditya Vikram Birla, i.e. Ravi Birla, was the promoter and shareholder of CFAL when CFAL was

declared as an NPA (on 09.12.2016) and underwent CIRP (on 16.01.2018).

iv. A Resolution Plan submitted by a third-party Consortium of United Tradeco FZC and QVC Exports Pvt. Ltd. in respect of CFAL was approved by the NCLT on 11.10.2018.

v. The NCLAT held that the resolution of CFAL by the plan of another entity will not take away the ineligibility of the erstwhile promoters who were responsible for the downfall of the Company as it is the financial creditors who suffered a hair-cut and the erstwhile promoters cannot be eligible till the time they pay the outstanding dues in respect of CFAL.

vi. The NCLAT relied upon the first proviso of Section 29A(c) to hold that the ineligibility can only be removed if the person submitting a Resolution Plan makes payment of all overdue amounts with interest thereon and charges relating to the Non-Performing Asset in question before submission of a Resolution Plan. Therefore, the appellant must first pay off the debt of the said Corporate Debtor being CFAL classified as NPA to become eligible under

Section 29A(c). Since, the condition laid down in the first proviso to Section 29A(c) has not been fulfilled by the appellant as a result the appellant has been held to be ineligible under Section 29A(c).

31. We are of the view that the entire basis for holding the appellant as ineligible under Section 29A(c) is fallacious as ineligibility under 29A(c) has to be reckoned on the date of submission of the Resolution Plan.

32. Section 29A(c) begins with the words “*at the time of submission of resolution plan*” which had been inserted by way of Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 with retrospective effect from 06.06.2018.

33. This amendment clarified that the ineligibility of the resolution applicant has to be seen on the date when the resolution applicant submits its Resolution Plan for the Corporate Debtor. This position of law has been fortified by this Court in the case of ***ArcelorMittal India Private Limited v. Satish Kumar Gupta and Ors.*** reported in (2019) 2 SCC 1 (para 46).

34. In ***ArcelorMittal India Private Limited*** (supra), this Court held that the embargo in Section 29A(c) applies *in praesenti*, that

is, it relates to NPA's and shortfalls currently owing to financial creditors as on the date of submission of Resolution Plan. The relevant ratio is quoted below:-

“46. According to us, it is clear that the opening words of Section 29-A furnish a clue as to the time at which clause (c) is to operate. The opening words of Section 29-A state: “a person shall not be eligible to submit a resolution plan...”. It is clear therefore that the stage of ineligibility attaches when the resolution plan is submitted by a resolution applicant. The contrary view expressed by Shri Rohatgi is obviously incorrect, as the date of commencement of the corporate insolvency resolution process is only relevant for the purpose of calculating whether one year has lapsed from the date of classification of a person as a non-performing asset. Further, the expression used is “has”, which as Dr Singhvi has correctly argued, is in praesenti. This is to be contrasted with the expression “has been”, which is used in clauses (d) and (g), which refers to an anterior point of time. Consequently, the amendment of 2018 introducing the words “at the time of submission of the resolution plan” is clarificatory, as this was always the correct interpretation as to the point of time at which the disqualification in clause (c) of Section 29-A will attach. In fact, the amendment was made pursuant to the Insolvency Law Committee Report of March, 2018. That Report clearly stated:

“In relation to applicability of Section 29-A(c), the Committee also discussed that it must be clarified that the disqualification pursuant to Section 29-A(c) shall be applicable if such NPA accounts are held by the resolution applicant or its connected persons

at the time of submission of the resolution plan to the RP.”

35. In the present case, there were no dues *in praesenti*. This is because CFAL stood fully resolved on 11.10.2018 (6 years prior to the submission of Resolution Plan by the appellant) with a plan approval and a new management took over that company.

36. The rule laid down in ***ArcelorMittal India Private Limited*** (supra) is just, reasonable and correct because once the plan stands approved, all parties are bound by the terms of the plan and there are no outstanding dues or claims remaining in terms of Section 31 of the IBC, 2016. Since all remaining dues stand extinguished and the company operates on a clean slate, there is no question of such unpaid dues being ‘resurrected’ for the purposes of gauging eligibility in terms of Section 29A.

37. The date of submission of Resolution Plan by the appellant for the Corporate Debtor is 28.06.2024. Thus, 28.06.2024 is the relevant date for determining the eligibility of the appellant under Section 29A(c).

38. While the present appellant was incorporated on 21.12.2021, the CIRP for CFAL concluded long back on 11.10.2018. The

appellant, which is a corporate entity, was not even born when CFAL stood fully resolved.

39. Further, after approval of the Resolution Plan of CFAL the entire shareholding stood extinguished and the entire management, control and shareholding vested with the QVC Consortium. Thus, it cannot be either said that Aditya Vikram Birla or any of the connected persons of the appellant are in the management or control of CFAL as on 28.06.2024.

40. Admittedly, the appellant i.e. Cosmic CRF Ltd. is not a NPA and does not hold any NPA as on the date of submission of Resolution Plan i.e. 28.06.2024.

41. The connected person to appellant i.e. Aditya Vikram Birla is not the promoter nor in management or control of any Corporate Debtor which is classified as a NPA as on the date of submission of Resolution Plan i.e. 28.06.2024, since NPA of CFAL got resolved on 11.10.2018 and neither Aditya Vikram Birla is in management and control of CFAL, thus, the applicant is eligible under Section 29A(c).

Whether the NCLAT proceeded on a wrong premise in as much as Aditya Vikram Birla was never in the management or control of CFAL

42. The appellant's promoter is Aditya Vikram Birla. He had a miniscule holding in CFAL but did not hold any post as a Director or a Promoter. The percentage of shareholding of Aditya Vikram Birla in CFAL was 0.09%. It was his father Ravi Birla who was the promoter of CFAL.

43. In ***Swiss Ribbons Private Limited and Anr. v. Union of India and Ors.***, reported in (2019) 4 SCC 17, this Court held that a mere familial relationship would not render a person ineligible unless there was actual involvement. There is no material on the record to show that Ravi Birla is in any manner involved in the management of Cosmic CRF. The relevant quotation from *Swiss Ribbons* (supra) is extracted below:-

“109. We are of the view that persons who act jointly or in concert with others are connected with the business activity of the resolution applicant. Similarly, all the categories of persons mentioned in Section 5(24-A) show that such persons must be “connected” with the resolution applicant within the meaning of Section 29-A(j). This being the case, the said categories of persons who are collectively mentioned under the caption “relative” obviously need to have a connection with the business activity of the resolution applicant. In the absence of showing that such person is “connected” with the

business of the activity of the resolution applicant, such person cannot possibly be disqualified under Section 29-A(j). All the categories in Section 29-A(j) deal with persons, natural as well as artificial, who are connected with the business activity of the resolution applicant. The expression “related party”, therefore, and “relative” contained in the definition sections must be read noscitur a sociis with the categories of persons mentioned in Explanation I, and so read, would include only persons who are connected with the business activity of the resolution applicant.”

44. The judgment in **Swiss Ribbons** (supra) has been followed by this Court in the case of **Eva Agro Feeds (P) Ltd. v. Punjab National Bank**, reported in (2023) 10 SCC 189. The relevant observations are as under:-

“88. After a careful analysis, this Court on Swiss Ribbons case [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17] opined that the expressions “related party” and “relative” contained in the definition sections must be read noscitur a sociis with the categories of person mentioned in Explanation I. So read, it would include only persons who are connected with the business activity of the resolution applicant. This Court further clarified that the expression “connected person” would also cover a person who is in management or control of the business of the corporate debtor during the implementation of a resolution plan.

x x x x x

92. From the above, it is clearly manifest that the disqualification sought to be attached to the appellant is without any substance as the related party had ceased to be in the helm of affairs of the corporate debtor more than a decade ago. He was not in charge of the company or an influential member of the company i.e. the corporate

debtor when the appellant had made its bid pursuant to the auction-sale notice.”

45. Further, any shareholding which Aditya Vikram Birla or his father had in CFAL stood extinguished on 11.10.2018 and the entire control and the management vested with the new company that took over CFAL.

46. It appears that after approval of the Resolution Plan of CFAL way back in 2018, the entire management, control and shareholding vested with the QVC Consortium.

47. The salient features of the Resolution Plan of CFAL by Consortium of United Tradeco FZC and QVC Exports Pvt. Ltd. are as follows:-

- i. Financial Debt of Secured Financial Creditors of Rs. 176.32 crores resolved at Rs. 91.69 crores as per the Resolution Plan.
- ii. The remaining dues of the Financial Creditors would stand extinguished.
- iii. Account of CFAL was upgraded to Standard Category from NPA.

iv. The old shareholding would stand extinguished and vesting of entire shareholding in the new management.

v. Old directors would retire and new directors would be appointed and the entire management would vest in the QVC consortium.

vi. The Resolution Plan of CFAL was approved way back on 11.10.2018. Thus, after approval of the Resolution Plan, the account of CFAL stood upgraded to Standard category from NPA. The relevant portion is quoted hereunder:-

‘Specific Order to the Secured Financial Creditors to “UPGRADE” the Account of Corporate Debtor with Banks/ FI under the CIBIL Mechanism to “Standard Category” from NPA on the completion of the Upfront Payment to Secured Financial Creditors under this Resolution Plan so as to enable the Resolution Applicant to revive the business of Corporate Debtor afresh and such action would enable the Resolution Applicant to take Loans for Balance Payment of the Resolution Plan or Upgradation of the Plant & Machinery of the Corporate Debtor which will assist in complete revival.’

vii. The entire shareholding, control and management of CFAL stood vested with the QVC Consortium. The outstanding dues of the financial creditors stood extinguished and nothing remained to be recovered by the Financial Creditors.

viii. Further, the observation that Aditya Vikram Birla was the promoter of CFAL is incorrect. Aditya Vikram Birla was never a director nor a promoter in CFAL and the miniscule shareholding of 0.09% also stood extinguished.

ix. The observation that Aditya Vikram Birla held significant control over CFAL indirectly through other corporate entities is flawed as Aditya Vikram Birla was not a shareholder in such corporate entities except one company where Aditya Vikram Birla held 0.4% shareholding. In any event, the entire shareholding in CFAL stood extinguished post approval of the Resolution Plan and the equity shares stood vested with the QVC Consortium way back in 2018 itself.

x. Thus, post approval of Resolution Plan of CFAL, neither Aditya Vikram Birla nor any of the connected persons of the appellant have any connection with CFAL whatsoever.

Whether appellant or its connected person has any connection with the QVC Consortium

48. Promoters of United Tradeco FZC are Sabita Agarwal and Umesh Babu Sharma. Net worth of United Tradeco FZC is US\$44.21 Million. The key administration of QVC Exports Ltd. is

with Arun Mondal, Neha Chauhan, Arpita Roy and Nilesh Sharma. Thus, neither the appellant nor Aditya Vikram Birla are either shareholder, promoter or in any way connected with the QVC consortium.

Reliance on the first proviso to Section 29A(c) to hold appellant ineligible is incorrect

49. As per the NCLAT, there was shortfall suffered by the financial creditors with respect to another company, viz. Cosmic Ferro Alloys Ltd (CFAL).

50. The NCLAT relying upon the first proviso of Section 29A(c) has held that Aditya Vikram Birla must first pay off the outstanding debt of CFAL which was classified as NPA in order to become eligible under Section 29A(c).

51. The first proviso to Section 29A(c) reads as follows:-

“Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan”;

52. As stated above, there were no dues *in praesenti*. This is because CFAL stood fully resolved on 11.10.2018 (6 years prior to

the submission of Resolution Plan by the appellant) with a plan approval and a new management took over that company.

53. All parties are bound by the terms of the plan and there are no outstanding dues or claims remaining in terms of Section 31 of the IBC, 2016. Since all remaining dues stand extinguished and the company operates on a clean slate, there is no question of such unpaid dues being ‘resurrected’ for the purposes of gauging eligibility in terms of Section 29A.

54. The NCLAT could be said to have misinterpreted the judgment of ***ArcelorMittal India Private Limited*** (supra) to hold the appellant to be ineligible under the first proviso to Section 29A(c) as in that case, the Resolution Applicant therein on the Resolution Plan submission date held an NPA where amounts were overdue. Such facts are not there in the present case. In fact, the judgment read in entirety advances the case of the appellant herein.

55. Thus, the first proviso to Section 29A(c) is not applicable at all to the facts of the present case.

REASON 2:

After approval of Resolution Plan of CFAL, Aditya Vikram Birla was working as Marketing Executive of CFAL,

hence, even after approval of Resolution Plan, Aditya Vikram Birla continued to be in the operation of CFAL.

56. It has been stated in the Resolution Plan for the CFAL itself that Aditya Vikram Birla will have no influence in the business, decision making process, management or control of CFAL post approval of Resolution Plan.

57. *In presentai* or at the time of submission of Resolution Plan for the Corporate Debtor, Aditya Vikram Birla was not even working as Marketing Executive in any manner whatsoever and had resigned much prior to the submission of Resolution Plan.

REASON 3:

Pursuant to the Business Transfer Agreement dated 19.01.2022, appellant acquired Singur unit of CFAL on slump sale basis and thus Aditya Vikram Birla being the Managing Director of appellant continues to enjoy assets of CFAL post approval of Resolution Plan.

58. After the QVC Consortium took over CFAL, the new owners deleveraged the Company and sold one unit (smaller unit) out of the 2 units to the appellant for a valuable consideration of 49 crores on an arm's length basis. This transaction happened 4 years after the approval of Resolution Plan.

59. CFAL is a separate legal entity owned by a QVC Consortium and appellant is a separate legal entity. They have no connection with each other.

60. There is adversarial litigation pending between the CFAL and the appellant in respect of such purchase of unit.

61. Further, such purchase does not draw any disqualification under Section 29A(c).

Eligibility of the appellant under Section 29A(j) if IBC

62. Section 29A(j) is not a disqualification *per se* but only provides that the Resolution Applicant shall become ineligible if the connected person of the Resolution Applicant is held to be ineligible under Section 29A(a) to Section 29A(i) of IBC, 2016.

63. In the present case, the appellant has been erroneously held to be ineligible under Section 29A only for the reason that the connected person of the appellant i.e., Aditya Vikram Birla is ineligible under Section 29A(c) of IBC. Such an erroneous finding of the NCLAT has irreversible drastic consequences as it will be tantamount to perpetually disqualifying the appellant to take part in any CIRP.

64. The reasoning of the NCLAT in observing Aditya Vikram Birla as ineligible under Section 29A(c) is unsustainable as submitted in the preceding paragraphs and the same are not being repeated herein for the sake of brevity.

65. Once Aditya Vikram Birla is held to be eligible under section 29A(c), there can be no disqualification under section 29A(j).

66. Hence, the appellant and its connected persons do not suffer from any ineligibility under Section 29A(c) or Section 29A(j) or any other sub-section of Section 29A.

67. Furthermore, the present appellant has been found to be eligible in other CIRPs. Specifically, in the case of ***State Bank of India v. N.S. Engineering Projects Private Limited***, which was successfully resolved by a Final Order dated 12.03.2024 passed by the NCLT, Kolkata. The present appellant was declared as the SRA and the plan has been implemented.

68. In view of the aforesaid, the appeals succeed and are hereby allowed. The two impugned orders passed by the NCLAT are hereby set aside. All consequent actions taken in pursuance of the impugned orders are hereby set aside, including the publication of fresh Form-G and consequential steps thereto. The appellant is

declared eligible to participate in the CIRP of the Corporate Debtor.
Its Resolution Plan proceedings as considered by the CoC shall be
further processed in accordance with law.

69. Pending application, if any, also stands disposed of
accordingly.

.....**J.**
(J.B. PARDIWALA)

.....**J.**
(UJJAL BHUYAN)

NEW DELHI;
MAY 14, 2026