



# INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

## IBC Case Law Capsule

No. 220

(April 21, 2025)

**Piramal Capital And Housing Finance Ltd. Vs. 63 Moons Technologies Ltd. & Others**  
**Civil Appeal No. 1632-1634 of 2022**  
**Date of Supreme Court's Judgement: April 01, 2025**

### Facts of the Case

The present appeal has been filed by Piramal Capital and Housing Ltd. (Piramal Capital), which is Successful Resolution Applicant (SRA) of the Dewan Housing Finance Corporation Ltd. (DHFL), challenging the common judgment and order dated 27.01.2022 passed by the NCLAT only to the extent that it modified the Resolution Plan (RP) by holding that the RP who permitted the SRA to appropriate recoveries, if any, from Avoidance applications filed under Section 66 of the IBC ought to be set aside and the Resolution Plan be sent back to the Committee of Creditors (CoC) for reconsideration on that aspect.

On an application filed by the Reserve Bank of India (RBI), the NCLT *via* an order dated 03.12.2019 initiated commencement of Corporate Insolvency Resolution Process (CIRP) of DHFL and confirmed the appointment of Administrator to perform all functions of the Resolution Professional under the IBC. Subsequently, the Administrator received the claims worth ₹82,247 Crores. He also appointed a firm for unearthing particulars of preferential, undervalued, fraudulent, and extortionate (PUFE) transactions entered by DHFL. The firm reported PUFE amounting ₹45,050/ Crores.

Meanwhile, the Resolution Plan of Piramal Capital amounting ₹ 37,250 Crores was approved by the CoC with 93.65% to which Authorized Representative of 77 financial creditors including the 63 Moons Technologies Ltd. (63 Moons), the Respondent, voted in favour. The Resolution Plan mentioned a notion value of ₹1 against PUFE transactions. However, when the Plan was submitted for approval of the NCLT, 63 Moons challenged the provisions of the Plan which provided that Section 66 (PUFE) Recoveries will go to the benefit of the SRA. The Adjudicating Authority rejected the petition of 63 Moons on the grounds that 77 financial creditors decided in its commercial wisdom to give away the Section 66 Recoveries to the SRA after a hard Bargain in exchange for a lump sum resolution amount of ₹37,250 Crores. Aggrieved with this order 63 Moons filed an appeal in the NCLAT which was allowed. This arises the preset appeal before the Apex Court.



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## Supreme Court's observations:

Relying on Supreme Court judgements in the cases of *Arcelormittal India Pvt. Ltd. v. Satish Kumar Gupta and Others*, (2019), *Ebix Singapore Pvt. Ltd. v. CoC of Educomp Solutions Ltd. and Another* (2022) and *M.K. Rajagopalan v. Dr. Periasamy Palani Gounder and Another* (2024), the Apex Court held that the legislature has given paramount importance to the “commercial wisdom” of CoC, and that the scope of the judicial review by the Adjudicating Authority (NCLT) is limited to the extent provided under Section 31, and that of the Appellate Authority (NCLAT) is limited to the extent provided under sub-section (3) of Section 61 of the IBC.

Furthermore, the Court held that if the finality and binding force is not provided to the votes cast by the Authorized Representatives of a class of Financial Creditors, a plan of resolution involving large number of parties may never fructify. In the instant case, the vote cast by the Authorized Representative on behalf of the class of Financial Creditors he represented was binding on the 63 Moons and other Appellants before the NCLAT, and therefore they were stopped from raising any objection before the NCLT or NCLAT against the RP approved by the requisite majority of CoC.

Regarding the notional value of ₹1 ascribed to Section 66 Applications under the Resolution Plan, the Apex Court held that it was made in response to the provision of RFRP issued by the Administrator. The NCLAT therefore has clearly transgressed its jurisdiction under Section 61 IBC, by interfering with the clause pertaining to the treatment to the recoveries from the Fraudulent and Wrongful trading under Section 66.

**Order/Judgement:** The Supreme Court set aside the NCLAT order dated 27.01.2022 and upheld the order of NCLT dated 07.06.2021 granting its approval to the Resolution Plan. It also ordered the NCLT to decide all the Avoidance Applications separately. The recoveries/benefits that may follow from such Applications shall be appropriated in favour of the CoC in case of Avoidance Applications under Section 43, 45 and 50, and in favour of SRA in case of Applications under Section 66 of IBC.

**Case Review:** *Appeal Allowed.*