

8th Arun Jaitley International Insolvency and Bankruptcy Moot Competition

National Law University Delhi

Email: insolvency@nludelhi.ac.in

Moot Proposition

1. Swagatam Public Limited (“**Swagatam**”) was incorporated on 12 May 1996 under the Companies Act, 1956, and is headquartered in the coastal town of Vangalore, in the State of Kerala, India. Swagatam operates two distinct businesses, a hotel business and ship building business.

Hotel Segment of Swagatam

2. Swagatam owns and operates a chain of luxury hotels, under the brand “Swagatam Group”. At one time, the Swagatam Group was considered as one of the most luxurious brands in India, often seeing overwhelming number of international travelers, looking for a premium holistic wellness experience. While three of the hotel properties were built on land owned by Swagatam, one property, being the hotel at Marari Beach, is located on the land leased by Swagatam from the Marari Coastal Board.
3. In 2022, Swagatam purchased 100% shareholding in a foreign company called Spa Resorts Limited, incorporated in the Republic of Bhutania. Spa Resorts Limited owns a hotel in Kerala, India through its wholly owned Indian subsidiary called Maximum Luxury Spa and Resort Limited.
4. While the land acquisition for three Hotels in India was financed by Swagatam itself, Swagatam has taken several other loans for general corporate purposes, some of which are used as working capital for running the Hotels. One of the loans availed by Swagatam was from Nano Hotels Limited (“**Nano**”), a company operating budget Hotels all over India, who’s promoter Mr. Nano Iyer was a friend of Mr. Manu Krishnan, promoter of Swagatam.
5. Spa Resorts Limited has taken a separate loan from YCICI Bank located in the Republic of Bhutania. The loan is secured by way of pledge of 100% shareholding of Spa Resorts Limited. There is no ‘covenant to pay’ clause in the pledge agreement. Further, no guarantee for the loan has been provided to YCICI Bank by Swagatam.

Ship Building Business

6. In addition, Swagatam Public Limited has a state-of-the-art shipbuilding facility at Vangalore Shipyard. As part of this business, Swagatam is engaged in designing and construction of all kinds of vessels, from small-sized vessels and tugs to sophisticated offshore vessels, cargo barges and ships. The facility is part of the Vangalore Shipyard, which has been leased by Vangalore Port Trust, Government of India to Swagatam by way of a lease deed dated 1 February 2010 for a period of 60 years. Encouraged by the success of its ship building business, Swagatam undertook an ambitious program between 2017 and 2019, financed largely through a consortium of banks (“**Bank Consortium**”) to modernize its ship building facility. Working capital for the Ship Building business was financed by Eastern Commercial Bank (“**ECB**”).

Stress in the Business and commencement of CIRP

7. A cyclone hit the city of Vangalore in 2019 and had a severe impact on the ship building facility, halting operations and destroying parts of Swagatam's workshop for ship building.
8. The situation for Swagatam worsened with the onset of the pandemic in early 2020 when demand for ship building fell drastically. At the same time, the Hotel segment of Swagatam also suffered a massive blow on account of COVID 19 travel restrictions. With no international travelers, the Hotel business came to a halt and started picking up again only in 2022.
9. By then, almost all banks and financial institutions had accelerated their loans and Swagatam's account turned NPA in December 2022. Swagatam thereafter started a process of negotiation and settlements with its banks and financial institutions.
10. In 2022, Swagatam entered into a master restructuring agreement with the Bank Consortium for restructuring of its loans, with moratorium on repayment till December 2025. With this Swagatam got a breather with respect to its ship building business.
11. The negotiations with the other financial institutions and banks fell through in 2023. Further, Swagatam was also not able to pay many of its operational creditors, including Marari Coastal Board and Vangalore Port Trust. Further, discussions with Nano also broke down and there was a public falling out between Mr. Nano and Mr. Manu Krishnan.
12. On 10 October 2023, ADFC Bank (that had given a working capital loan to Swagatam) filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") before the National Company Law Tribunal, Kochi Bench ("**NCLT**") for initiation of the Corporate Insolvency Resolution Process ("**CIRP**") of Swagatam. Various operational creditors also filed petitions against Swagatam under Section 9 of the IBC.
13. On 1 September 2024, Vangalore Port Trust issued a notice of termination to Swagatam, terminating the lease deed between Swagatam and Vangalore Port Trust and demanding INR 500 Crores comprising outstanding lease rentals, interest and penalty as per the Vangalore Port Trust Rules. Swagatam filed a writ petition against the termination, and an interim order was passed by the Kerala High Court, directing status quo to be maintained till the pendency of the writ petition.
14. On 2 February 2025, the NCLT admitted the petition of ADFC Bank, declared a moratorium under Section 14 of the Code, and appointed Mr. Abhijeet Mehra as the Interim Resolution Professional (IRP) of Swagatam.
15. Following the commencement of CIRP, Mr. Abhijeet Mehra took charge of the management and issued a public announcement inviting claims from all creditors. Within two weeks, claims aggregating to more than INR 10,000 crore were received from financial and operational creditors combined.
16. The IRP constituted the Committee of Creditors ("**CoC**"), with following composition:

Financial Creditor	Debt Admitted	Security
Consortium of Banks	3000 Crores	First charge on all movable assets relating to Shipbuilding division, leasehold rights on the land leased from Vangalore Port Trust.
Eastern Commercial Bank (“ ECB ”)	1000 Crores	Second charge on all movable assets relating to Shipbuilding division, leasehold rights on the land leased from Vangalore Port Trust.
ADFC Bank	700 Crores	First charge over all current assets and book receivables
Maxis Bank	1300 Crores	First and exclusive charge over land and building - Hotel Swagatam, Munnar
Sunny ARC	350 Crores	First and exclusive charge over office building located in the city of Kochi.
Nano Hotels Limited	600 Crores	Unsecured creditor (intercorporate deposit)
Total	6950 Crores	

17. In addition, claims from around 120 operational creditors, amounting to INR 4800 Crores were received as follows:

Operational Creditor	Debt Admitted	Security
Marari Coastal Board	1000 Crores	Unsecured
Vangalore Port Trust	1200 Crores	Secured
Employees/ Workmen/ PF	600 Crores	Unsecured
Other Operational Creditors	2000 Crores	Unsecured
Total	4800 Crores	

18. Mr. Mehra was confirmed as the Resolution Professional (“**RP**”) by the CoC. Marari Coastal Board and Vangalore Port Trust were also invited to the CoC meetings as participant, though only Marari Coastal Board attended meetings of CoC.

19. After the CoC was constituted, the promoters and shareholders of Swagatam led by its founder, Mr. Manu Krishnan, and supported by a private equity fund, Samay Capital Partners LLP, approached the CoC and submitted a settlement proposal under Section 12A, proposing to settle 100% dues of the CoC members in a structured and deferred manner. The CoC approved the settlement proposal with more than 90% vote, with Nano holding approx. 8.6% voting share, dissenting, with demands of full upfront payment.

20. The RP thereafter filed an application under Section 12A read with Regulation 30A of the IBBI (CIRP for Corporate Persons) Regulations, 2016 and Rule 11 of the NCLT Rules, 2016, seeking withdrawal of the insolvency proceedings based on the approval given by the CoC

21. However, multiple operational creditors and Nano filed applications before the NCLT, objecting to the withdrawal. Nano argued that the promoters have the ability to pay the entire debt upfront, and it does not wish to give any further moratoriums to Swagatam. It further

raised concerns with respect to siphoning off of debt advanced by Nano and made several allegations against Mr. Manu Krishnan, highlighting his oft reported lavish lifestyle. The operational creditors argued that they should also be paid 100% of their dues as well.

22. The promoters argued that since the settlement was approved by more than 90% of the CoC, no additional fetters can be attached and the NCLT should allow withdrawal in exercise of its powers under Section 12A. Promoters further argued that claims of the objectors are inflated and there are various disputes pending in courts with respect to several operational creditors. With respect to Nano, the promoters made several allegations on Nano including attempts by Nano to take over Swagatam after falling out between the respective promoters of Nano and Swagatam in 2023.
23. After hearing the parties, the NCLT, Kochi Bench, by its order dated 1 August 2025, rejected the Section 12A withdrawal application, holding that once the CIRP commences, they are proceedings in rem and interest of all creditors should be considered before accepting any settlement proposal. Aggrieved, the promoters preferred an appeal before the National Company Law Appellate Tribunal (“**NCLAT**”), arguing that the NCLT had taken an unduly rigid view of Section 12A. In its judgment dated 1 October 2025, the NCLAT upheld the order of the NCLT. The promoters have appealed against the order of the NCLAT, and the appeal is pending before the Supreme Court of India.

Applications filed by Marari Coastal Board

24. During the CIRP, Marari Coastal Board issued a notice of termination to Swagatam, on account of non-payment of its dues. The RP filed an application under Section 14 of the Code with the NCLT, for setting aside the termination notice, claiming breach of moratorium. In response, Marari Coastal Board claimed that it has the statutory right to terminate the lease and its actions are driven by public interest. Marari Coastal Board further claimed that while Swagatam continues to occupy the land leased from Marari Coastal Board, it is not paying lease rentals even for the CIRP period. The NCLT gave an interim stay on the termination by Marari Coastal Board, pending hearing of the application. The matter remained pending at the time of consideration of resolution plan of Swagatam.

Resolution process

25. After rejection of 12A withdrawal application by the NCLT, the RP proceeded in the CIRP of Swagatam Debtor and issued the invitation for expression of interest (“**IEOI**”) for resolution plans for the Swagatam. Basis approval of the CoC, the RP invited EOIs for:
 - a. Ship Building Division
 - b. Hotel Division
 - c. Swagatam as a whole.
26. Multiple EOIs were received for Swagatam. The RP prepared a final list of prospective resolution applicants (“**PRAs**”) for the Ship Building Division with 10 PRAs, final list for Hotel Division with 20 PRAs and a final list for Swagatam (as a whole) with 6 PRAs.

27. The RP thereafter issued a request for resolution plans (“**RFRP**”) to all PRAs inviting resolution plans for the above divisions of Swagatam or for Swagatam as a whole and gave time for due diligence. Eventually, after multiple extensions, 10 resolution plans were received for the Hotel division (including a resolution plan submitted by Nano) while 4 resolution plans were received for the Ship Building Division. 5 resolution applicants submitted their resolution plan for Swagatam as a whole. The CoC was faced with a dilemma on how to proceed with the resolution plan process given multiple plans for multiple segments, including 5 plans for Swagatam as a whole. The members of CoC were also unable to agree on allocation of liabilities and CIRP costs across two segments and various inter-creditor disputes emerged.
28. The CoC, with 51% voting, eventually decided that it will either consider the plans for Swagatam as a whole or consider plans submitted for both segments (Ship Building Division and Hotel Division) in a consortium. The CoC re-issued the RFRP and gave all resolution applicants (“**RAs**”) 30 days to form consortiums and re-submit their resolution plans.
29. After 30 days of re-issuance of RFRP, following resolution plans were submitted by the RAs:
- a. 5 resolution plans were submitted for Swagatam as a whole
 - b. A resolution plan was submitted by a consortium of Nano and Phalguni Ship Building Limited (“**Phalguni**”) (“**Nano Phalguni Consortium**”)
 - c. 2 other resolution plans were submitted by RAs in consortium.

Nano Phalguni Consortium Plan

30. The resolution plan of Nano Phalguni Consortium comprised of two resolution plans, one presented by Nano for Hotel Division and the other by Phalguni for Ship Building Division. Under the resolution plan:
- a. Swagatam would transfer its Hotel Division to Nano on a slump sale basis.
 - b. Swagatam would retain the Ship Building Division, which will be owned entirely by Phalguni.
 - c. All payments to be made to the creditors and for CIRP costs would be shared 50:50 by Phalguni and Nano.

Open Challenge Process

31. Since one of the RAs was Nano, owing to breach of confidentiality concerns raised by the other RAs, CoC decided to do an open-challenge process amongst all RAs for purposes of negotiation of their plans to alleviate any confidentiality concerns. The CoC informed all RAs by way of emails that resolution plans should be kept fully ready, and once the open-challenge process is complete, the RAs should submit their revised final resolution plans within 24 hours of closure of the challenge process, with numbers bid by them during the open challenge process. The email also stated that this will be the final resolution plan which will be considered and evaluated by the CoC and hence, the RAs should put their best foot forward during the open challenge process.

32. The RP conducted the open challenge process on 1 March 2026, with all RAs being given a chance to participate in the bidding process. The bidding was undertaken basis total resolution plan amount (to be distributed to the stakeholders) (“**Total Plan Amount**”), with RAs being asked to improve their Total Plan Amount through a transparent open-challenge mechanism.
33. At the end of the bidding process, one Genuine Concern Limited (“**Genuine**”), an RA that had submitted the resolution plan for Swagatam as a whole, emerged as the highest bidder with INR 5000 Crores as the Total Plan Amount. Nano Phalguni Consortium came second with INR 4500 Crores as the Total Plan Amount. All amounts were proposed to be paid upfront to the creditors, within 90 days of the approval of the resolution plan by the NCLT.
34. On 2 March 2026, i.e. within 24 hours, the RAs submitted their revised final resolution plans to the RP, incorporating the Total Plan Amount submitted by them during the open challenge process. CoC evaluated the final resolution plans on 3 March 2026 and on 4 March 2026, all resolution plans were put for simultaneous voting by the RP. CoC also, by more than 66% vote, decided that the distribution matrix for distributing the Total Plan Amount amongst various categories of creditors will be finalized only once there is clarity on which plan will be approved by the CoC.
35. The RP started the voting process on 5 March 2026, and the voting window was open till 10 March 2026. However, on 7 March 2026, Nano Phalguni Consortium sent an email to RP and CoC with an ‘updated’ and revised resolution plan under which:
- a. Nano Phalguni Consortium increased its Total Plan Amount to INR 5500 Crores (from INR 4500 Crores which was submitted by them during open challenge process)
 - b. Nano Phalguni Consortium added another consortium member to their resolution plan, namely Wakanda Hotels Limited (“**Wakanda**”), to whom Swagatam would sell 100% shareholding, such that Wakanda becomes a 100% shareholder of Spa Resorts Limited.
 - c. The revised resolution plan of Nano Phalguni Consortium provided that the pledge created by Swagatam in favour of YCICI Bank will be extinguished and YCICI Bank will be paid the liquidation value of shares of Spa Resorts Limited as on insolvency commencement date, which was working out to be INR 1000 Crores. This amount would be in addition to Total Plan Amount.
36. The RP halted the voting process on instructions of the CoC and convened a CoC meeting to consider the turn of events. The CoC decided to allow Nano Phalguni Consortium to add Wakanda as the third consortium member and also decided to accept the updated resolution plan of Nano Phalguni Wakanda consortium and re-do the open challenge process. The CoC directed the RP to invite all RAs for another round of bidding under open challenge process, noting scope for further improvement for maximization of value to the creditors. Genuine, however, questioned the process being followed by the RP and CoC to accommodate Nano and declined to participate in any further bidding process, insisting that CoC must complete its ongoing voting process.

37. The CoC decided to go ahead with a fresh bidding under open challenge process with remaining bidders, where Nano Phalguni Wakanda Consortium increased its Total Plan Amount to INR 7000 Crores (including INR 1000 Crores to YCICI Bank) and emerged as the highest bidder.

38. Thereafter, the RP put all resolution plans for voting by the CoC, and the voting result were as follows:

- a. Nano Phalguni Wakanda Consortium received 69.5% vote with Sunny ARC, ECB and ADFC Bank dissenting.
- b. Genuine received 66.9% vote with Nano, ECB and ADFC Bank dissenting.

39. The CoC declared the resolution plan of Nano Phalguni Wakanda Consortium as being approved and the RP filed an application for approval of its resolution plan.

Distribution matrix

40. The CoC also voted on the distribution matrix for distribution of Total Plan Amount to various categories of creditors and approved the following distribution with 66.9% voting share:

CIRP costs	To be paid at actual by the Resolution Applicants (including full lease rentals to Marari Coastal Board and Vangalore Port Trust for the CIRP period)
Secured Financial Creditors (irrespective of value of their security)	<ul style="list-style-type: none"> ● All first charge holders: INR 3210 Crores against INR 5350 Crores (60%) ● Second Charge Holder (ECB): 350 Crores against INR 1000 Crores (35%)
Unsecured financial creditor	NIL
Marari Coastal Board	350 Crores (35%)
Vangalore Port Trust	720 Crores against admitted debt of 1200 Crores (60%)
Employees/ Workmen/ PF etc.	600 Crores (100%)
All other unsecured operational creditors	All amounts on pro-rata basis against 2000 Crores
YCICI Bank	No claim filed, however, to be paid INR 1000 Crores for extinguishment of pledge.

41. The RP filed an application with the NCLT for approval of the distribution of the Total Plan Amount amongst various categories of creditors.

42. Various objections were filed against the resolution plan as well as against the distribution process.

43. Following applications were pending in NCLT at the time of consideration of the resolution plan.

(a) Applications by and against Marari Coastal Board:

- (i) Application against Marari Coastal Board by the RP, seeking to set aside the termination notice issued by Marari Coastal Board terminating the lease deed for the Hotel at Marai Beach.
- (ii) Application by Marari Coastal Board objecting to payment of only 35% of its dues under the resolution plan. Marari Coastal Board claimed that under the resolution plan of Nano Phalguni Wakanda Consortium, the lease deed between Marari Coastal Board and Swagatam is being transferred to Nano, and such transfer of lease requires prior approval of the Marari Coastal Board and further payment of transfer premium charges. Kerala further claimed that under the Marari Coastal Board Rules, Marari Coastal Board cannot give consent for transfer of any lease without transferee (i.e. Nano) committing to clear 100% dues to Marari Coastal Board. Marari Coastal Board claimed that the resolution plan cannot provide for automatic approval of the lessor without clearing past dues. Thus Marari Coastal Board sought payment of entire amount of INR 1000 Crores and an additional transfer premium of INR 200 Crores.

(b) Application by the promoter: Application by the promoter of Swagatam under Section 60 (5) of the Code, claiming that its 12A proposal was superior and the resolution plan of Nano Phalguni Wakanda Consortium does not maximise the value for the creditors. Promoter also made various allegations against Nano, claiming that Nano's design all along was to somehow take control of the Hotel business of Swagatam and Nano has played fraud on the creditors.

(c) Application by Genuine: Genuine, the unsuccessful resolution applicant, filed an application under Section 60 (5) of the Code, claiming material irregularity in the process. Genuine claimed that: (a) RP and CoC could not have allowed formation of consortiums in the resolution process; (b) RP and CoC could not have allowed the unsolicited bid of Nano Phalguni Wakanda Consortium; (c) RP and CoC were biased towards Nano and that Nano took undue advantage of also being a member of the CoC and misused its position to tilt the process and the votes in its favour. Genuine further claimed that the decision of the CoC to allow Wakanda to participate in the process was illegal as Wakanda had not submitted any EOI for Swagatam and was not in the final list of PRAs. It further claimed that Nano being a resolution applicant, Nano had a conflict of interest in the CoC and could not have participated in the meetings where Genuine's plan was being considered and also could not have voted on any resolution plans. Genuine further invoked the guidelines of the Insolvency and Bankruptcy Board of India (IBBI) for CoC and argued that the entire process is vitiated with illegality and was designed to give benefit to Nano.

(d) Application by Dissenting Creditors:

- (i) Sunny ARC filed an application in the NCLT as a dissenting financial creditor, claiming that as a dissenting creditor, it is entitled to receive the entire INR 350 Crores since

the value of its security, i.e. the office building is close to INR 400 Crores as per the valuation report.

- (ii) ECB also filed an application claiming that the distribution matrix is flawed and Section 53 makes no distinction between first and second charge holder. ECB claimed that it should also get 60%, which is at par with the Bank Consortium, as opposed to only receiving 35%.

44. On 1 May 2026, NCLT passed the following order:

- a. NCLT allowed the application of the RP against Marari Coastal Board and rejected the objection of the Marari Coastal Board holding that the termination notice is in breach of moratorium under Section 14. It further held that the resolution plan provides for payment towards the CIRP costs and hence Marari Coastal Board will be paid its dues for the CIRP period. As far as payment for period prior to CIRP is concerned, NCLT held that the CoC can decide the distribution matrix in its commercial wisdom and Marari Coastal Board being an unsecured creditor cannot claim 100% payment. It further directed Marari Coastal Board to give approval for transfer of the lease relating to Marari Beach Hotel to Nano with no transfer premium.
- b. NCLT rejected the objections of the promoter stating that the 12A proposal has already been rejected and the matter is pending in Supreme Court. It further held that CoC can decide to approve any resolution plan in its commercial wisdom and hence, Nano being a creditor along with being a resolution applicant makes no difference.
- c. NCLT rejected the objections of Genuine stating that Genuine has no locus to challenge the commercial wisdom of the CoC. It further held that CoC can decide the manner and process of negotiations and terms of open challenge and there is no material irregularity in the process. It further held that the RFRP had enough flexibility to allow CoC to take any steps towards maximization of value for the creditors.
- d. Applications of Sunny ARC and ECB was rejected holding that CoC can decide the payout to dissenting creditor and assenting creditor in its commercial wisdom.

45. Thus, on 1 May 2026, the resolution plan of Nano Phalguni Wakanda Consortium stood approved. Various appeals were filed against the plan approval order, but no stay was granted and hence, Nano Phalguni Wakanda Consortium started taking steps towards implementation of the resolution plan.

46. On 15 May 2026, YCICI Bank accelerated its loan to Spa Resorts Limited claiming event of default on account of change in control of Swagatam and demanded an immediate payment from Spa Resorts Limited. When Spa Resorts Limited failed to pay, YCICI Bank filed an application for administration of Spa Resorts Limited in the Republic of Bhutania, claiming defaults in payment of its dues. The bankruptcy/ insolvency court of Bhutania accepted the application on 16 May 2026 and appointed Mr. Stephan Wang as the administrator of Spa Resorts Limited. Nano Phalguni Wakanda Consortium filed an application in NCLT for a stay on any potential sale in the administration process of Spa Resorts Limited claiming that such a process is against the resolution plan where YCICI Bank is being paid the liquidation value

of 100% shareholding of Spa Resorts Limited. It was further claimed that YCICI Bank is the only financial creditor of Spa Resorts Limited which is being settled under the Indian insolvency process. However, the administrator claimed that NCLT has no jurisdiction to stop the administration process of Spa Resorts Limited and instead, filed an application for recognition of the administration proceedings. The application for recognition was allowed by the NCLT, and the NCLT held that has no jurisdiction to pass any order with respect to administration process of Spa Resorts Limited. At the same time, NCLT held that Nano Phalguni Wakanda Consortium continues to be liable under the resolution plan to pay INR 1000 Crores to YCICI Bank. An appeal against the said order was filed by Nano Phalguni Wakanda Consortium in NCLAT.

47. Further, in NCLAT, an additional appeal was filed against the plan approval order by Vangalore Port Trust, claiming that the resolution plan provides for continuation of lease of Vangalore Port Trust which had already been terminated prior to CIRP. Vangalore Port Trust further claimed that irrespective, it should be paid 100% of its dues on the basis of a tripartite agreement that had been executed between Swagatam, Vangalore Port Trust and Consortium of Banks. Vangalore Port Trust claimed that under its lease deed, mortgage of leasehold rights and buildings requires prior approval of Vangalore Port Trust. At the time of granting approval for mortgage to Consortium of Banks, Swagatam and Consortium of Banks had entered into a tripartite agreement with Vangalore Port Trust, expressly agreeing that Vangalore Port Trust shall be paid 100% of its dues, in priority to any dues of the banks. Notably, Vangalore Port Trust also declined to provide approval to Phalguni for change in control of the Swagatam in favour of Phalguni and also rejected the application filed by Swagatam for reinstatement of lease and change in control in favour of Phalguni.
48. NCLAT, by its order dated 10 August 2026, rejected the appeals filed by Genuine, promoters, Nano Phalguni Wakanda Consortium, Sunny ARC, ECB. As regards appeals by the Mangalore Port Trust and Marari Coastal Board, NCLAT held that it cannot direct the authorities to approve transfer of any leases or give change in control and hence, these issues will need to be taken up separately by the RA with Mangalore Port Trust and Marari Coastal Board. Further, it held that being statutory bodies, 100% amount should be paid to these authorities.
49. The promoters, Genuine and Consortium, all dissatisfied for different reasons, approached the Supreme Court of India, challenging various aspects of the NCLAT order.
50. The stage was thus set for the Supreme Court to consider a confluence of complex questions, by the close of 2026, the insolvency proceedings of Swagatam had splintered into multiple appeals and cross-petitions, each raising complex questions that reached far beyond the fate of a single company.
51. Recognising the recurring nature of these questions across multiple insolvency cases, the Court ordered all petitions to be consolidated and heard together. The Supreme Court, therefore, framed six principal issues for adjudication, to be argued on behalf of all parties:

ISSUES:

1. Whether the application for withdrawal of CIRP made by the RP basis 12A settlement proposal, after approval of 90% of the CoC could have been rejected by the NCLT?
2. Whether an unsuccessful resolution applicant has a locus to challenge the approval of a resolution plan under Sections 61 and 62 of the Code? Is there a material irregularity in the process and is the approval of the resolution plan of the consortium liable to be set aside on this ground?
3. Whether the moratorium imposed under Section 14 of the IBC overrides the rights of Marari Coastal Board to terminate its lease? Was the NCLAT correct in holding that the Marari Coastal Board cannot be directed to give approvals for transfer of lease to Nano? What amount is payable to Marari Coastal Board under the resolution plan?
4. Can Mangalore Port Trust be directed to either re-instate the lease or give approval for transfer change in control of Swagatam in favour of Phalguni? Once the lease is terminated before CIRP, can any rights on the lease be claimed by Swagatam in the insolvency process?
5. Was the NCLT and NCLAT correct in directing payment to the dissenting financial creditors, Sunny ARC and ECB as per the commercial wisdom of CoC?
6. Was the NCLT and NCLAT correct in holding that they do not have any jurisdiction with respect to administration process of Spa Resorts Limited? Further, after holding that they do not have such jurisdiction, could the NCLT and NCLAT ordered payment of INR 1000 Crores to YCICI Bank under the resolution plan?

Assume:

1. *The proposed Amendments to the Insolvency and Bankruptcy Code, 2016, introduced in the Parliament on 12th August 2025 including Cross-Border Insolvency are in force in accordance with the provisions suggested in pages 532 to 569 in the Lok Sabha Select Committee Report dated 17th December 2025.*
2. *Assume that administration process in the State of Bhutania is similar to the administration process in UK.*