

# **M/s. Nirmal Ujjwal Credit Co-Operative Society Ltd. Vs. Ravi Sethia & Ors.**

Civil Appeal No. 11193 of 2025 · Supreme Court of India · 2026-04-09 · J.B. Pardiwala · K.V. Viswanathan · F2J-C-1044

## **Full judgment text**

M/s. Nirmal Ujjwal Credit Co-Operative Society Ltd. Vs. Ravi Sethia & Ors.

[Civil Appeal No. 11193 of 2025]

J.B. Pardiwala, J.:

For the convenience of exposition, this judgment is divided into the following parts:-

### **Index**

1. At the outset, we must state that the present statutory appeal was finally heard by us, and the judgment was reserved. Before we could deliver the judgment, Mr. Amit Pai, the learned Advocate on Record appearing for the appellant, orally mentioned the matter and made a humble request that the appellant may be permitted to withdraw the present appeal in the wake of some developments.

We expressed our willingness to permit the appellant to withdraw the appeal in the wake of the developments highlighted. However, at the same time, we also clarified that having regard to the importance of the issue involved in the present litigation we would be looking into the facts of the present appeal, the submissions canvassed on either side, the provisions of IBC and other relevant materials only with a view to explain the position of law or rather, the principles governing the pivotal issue in question without returning any findings on the merits of the appeal.

2. For this limited purpose, as afore-stated, we have looked into the facts, the submissions canvassed on either side and the provisions of law for the purpose of explaining the position of law governing the issue.

3. This statutory appeal arises from the judgment and order passed by the National Company Law Appellate Tribunal, New Delhi (hereinafter referred to as "NCLAT"), dated 21.08.2025, in Company Appeal (AT)(Ins) No. 790 of 2025. The NCLAT had affirmed the decision of the National Company Law Tribunal, Mumbai (hereinafter referred to as "NCLT") dated 09.04.2025 in CP (IB) No. 1318 of 2025, wherein it was declared that the appellant was ineligible to submit its resolution plan in the CIRP of Morarji Textiles Ltd. (hereinafter referred to as "Corporate Debtor") inter alia on the ground that the bye-laws of the appellant cooperative society did not permit it to invest in the corporate debtor.

### **A. FACTUAL MATRIX**

4. The appellant is a co-operative society registered under the provisions of the Multi-State Cooperative Societies Act, 2002 (hereinafter referred to as "2002 Act"). The appellant operates a textile unit named "Nirmal Textile" in Nagpur bearing a separate GST registration dated 23.04.2021 and a factory licence dated 28.10.2022.

5. On 03.08.2023, the Government of India brought an amendment to Section 64 of the 2002 Act with a view to insert certain qualifying terms in Clause (d) therein. The amended Section 64 provided in Clause (d) that a Multi-State Co-operative Society ("MSCS") may invest or deposit its funds, among other things, in the shares, securities, or assets of a subsidiary institution or any other institution in the same line of business as the MSCS. The amended Section 64(d) of the 2002 Act reads as under:

"64. Investment of funds.- A multi-State co-operative society may invest or deposit its funds -

(d) in the shares, securities or assets of a subsidiary institution or any other institution [in the same line of business as the multi-State co-operative society] or."

(Emphasis Supplied)

6. Pursuant to the above, the appellant issued a notice dated 01.09.2023 for conducting the Annual General Meeting (AGM) with an agenda to amend its bye-laws. Accordingly, an AGM was conducted on

24.09.2023 proposing amendments to the various clauses of its bye-laws. Among the amended clauses, Clause 52 was also amended to include in its Clause (iv) the verbatim provision of amended Section 64(d) of the 2002 Act as extracted above. Proposed amendment to Clause 52 reads as follows:

"23. To make Amendment in Bye Laws Clause No. 52 of the society to make amendment in the "Investment of Funds" to comply with the Provisions of the MSCS (Amendment) Act 2023

The Chairman of the society informed that it is necessary to make amendment in the bye laws of the society in accordance with the provisions of The Multi State Cooperative Societies (Amendment) Act, 2023 and rules made thereunder.

It was resolved that the clause number 52 of bye laws related to Investments of funds is changed from; The society may invest or deposit its funds in:

- a) Co-operative Banks;
- b) Securities specified in section 20 of the Indian Trust Act 1882;
- c) shares and securities of any other co-operative society/subsidiary institution;

To a) the society may invest or deposit its funds in accordance with Section 64 of the MSCS Act, 2002 in:

- iv) in the shares, securities and assets of any subsidiary institution or any other institution in the same line of business as the Multi-State Co-operative Society;
- vi) In such other manner as may be determined by the Central Government,
- c) any other Scheduled Bank/Nationalized Bank

"Further resolved that this change will come into effect from the date of approval of clause in Bye laws from Central Registrar"

"Further resolved that chairman is authorized to execute all documents required for and to sign all documents required to be filed with office of the Central Registrar Cooperative Societies, New Delhi."

(Emphasis Supplied)

7. Following this, a unanimous resolution was passed in the said AGM on 24.09.2023 to carry out the amendment of the bye-laws. Thereafter, the Chairman of the AGM issued a certificate of compliance dated 25.10.2023 in terms of Section 11 of the 2002 Act pursuant to which the proposed amendment to Clause 52 was placed before the Central Registrar. Pursuant to this, the Central Registrar issued a certificate of registration of an amendment dated 24.01.2024 and, thereby, approved the amendment to the bye-laws of the appellant.

8. The CIRP proceedings of the corporate debtor were commenced vide order dated 09.02.2024, passed by the NCLT. To carry out various functions in accordance with the Insolvency and Bankruptcy Code, 2016 ("IBC"), the NCLT appointed respondent no. 1 as the IRP/RP.

9. On 01.05.2024, the respondent no. 1 - RP issued an invitation seeking expression of interests ("EOI") under Section 25(2)(h) of the IBC inter alia, from various prospective resolution applicants ("PRA") by the end date 12.06.2024. The last date of submission of the resolution plan was set as 19.07.2024.

10. Accordingly, the appellant, after receiving the resolution to bid in a general meeting on 23.09.2024, submitted its EOI on 18.05.2024. Thereafter, the respondent no. 1 - RP on 23.06.2024 circulated a provisional list of PRAs to the Committee of Creditors ("COC"), which included the appellant. On 25.06.2024, the respondent no. 1 - RP sought the constitutional documents and other documents of the appellant in accordance with Regulation 36A(9) of the IBBI (CIRP) Regulations, 2016. On 27.06.2024, the appellant submitted all required documents, including the bye-laws. The appellant further clarified the reason for investing in the corporate debtor, specifically mentioning the details of its cotton ginning, pressing, and spinning mill. The respondent no. 1 - RP then circulated a final list of PRAs to COC on 02.07.2024, which also included the name of the appellant.

11. In pursuance of the aforesaid, the appellant submitted its resolution plan on 27.08.2024 for a total sum of Rs. 120 Crores. Upon receiving the resolution plan, the respondent no. 1 - RP invited the appellant to the next meeting of the COC. The appellant attended the 10th meeting of the COC on

01.10.2024, wherein the COC negotiated with the appellant on the value of the resolution plan. Thereafter, the respondent no. 1 - RP sent an email dated 11.11.2024 to the appellant, inter alia, seeking clarification on whether the constitutional documents of the appellant permitted it to acquire the corporate debtor under the regime of IBC. The appellant vide its email dated 18.11.2024 clarified the following to the above query:

"Since the IBC law came into effect recently, it was not specifically mentioned. However, the constitutional document/charter document allows collaboration, joint ventures, partnerships with national and, international companies. The charter document also mentioned that the objective is to purchase and procure the agro-products, modern techniques and other activities in the processing sector. The corporate debtor is also engaged in the business of processing of cotton into the spinning, weaving, printing and finishing business in the textile segment. Hence, we are well within the objectives of the charter document."

(Emphasis Supplied)

12. In the 10th and 17th COC meetings, respectively, the value of the resolution plan was increased to Rs. 169 Cr. After perusing the constitutional documents of the appellant, the respondent no. 1 - RP vide its email dated 10.02.2025 declared the appellant to be ineligible inter alia on the ground of the resolution plan being against the provisions of the bye-laws of the appellant, hence in contravention to Section 30(2)(e) of the IBC.

13. Aggrieved by the declaration of its ineligibility, the appellant filed an Interlocutory Application No. 880 of 2025 before the NCLT in the pending CIRP proceedings. Pursuant to which, the NCLT passed its order dated 09.04.2025 in the said IA inter alia holding that the appellant was ineligible to submit the resolution plan in the CIRP of the corporate debtor on the ground that the bye-laws of the appellant do not allow it to invest in the corporate debtor. In this respect, the NCLT found that the appellant is neither a subsidiary institution of the corporate debtor nor in the same line of business as the corporate debtor.

14. Thereafter, in order to challenge the aforesaid ruling of NCLT, the appellant filed Company Appeal (AT) No. 790 of 2025 before NCLAT. The NCLAT, after hearing the parties, kept the matter reserved for judgment. The appellant, at this juncture, upon knowing that the certificate of registration of the amendment of bye-laws was not placed before the NCLT, sought to place the same before the NCLAT on 21.07.2025 by e-filing an IA with e-filing no. 9910138/06622/2025 with a request to reopen the hearing. However, on 22.07.2025, when the appellant mentioned the matter, the request for reopening the hearing was declined by the NCLAT.

15. Finally, the NCLAT vide the impugned judgment and order dismissed the appeal of the appellant inter alia holding that the appellant was not eligible to submit a resolution plan due to the restriction under Section 64(d) of the 2002 Act; the limited objective of the appellant's production in "agro-product"; and the bye-laws were not amended on the date of submission of the resolution plan. The relevant observations of the NCLAT in the impugned judgment and order are as under:

"61. We observe that although the co-operative society is allowed to invest its funds or deposit in the shares, security or assets of the subsidiary institution or any other institution, this is qualified with the words i.e., it has to be in the same line of business as a multistate co-operative society like the Appellant herein. This implies that Section 64(d) of 2002 Act entitles as well as restricts the cooperative society to invest its fund only in subsidiary institution or an institution in the same line of the business or the multi state co-operative society.

62. It is an undisputed fact that the Corporate Debtor was not a subsidiary institution as of date of the submission of the Resolution Plan. We have also noted that the Appellant was indeed in business of agro-based textile under the name and style of 'Nirmal Textiles', however, the business of the Corporate Debtor was man-made fibre/ viscos which Resolution Professional, CoC and Adjudicating Authority differentiated with business of the Appellant as Agro based textile processing.

63. We find logic as contained in the Impugned Order that the Appellant was not in the same line of the business and therefore was not entitled to invest in fund of the Corporate Debtor to acquire the business as a going concern. We further note that the objective and functions of the Appellant as of society have been clearly mentioned in Clause (5). We are conscious that Clause 5(s) of the bye-laws entitles the Appellant society to purchase, produce, procure, distribute like agro product for processing of product and by product and further entitles to make available to its member modern technique used

in processing agro products and other activity in processing. Thus, we find that the objectives of the Appellant are clearly relative to agro based project which is different from business of the Corporate Debtor.

64. We find that the CoC in, exercise of its commercial wisdom has taken the legal opinions including independent legal opinion before coming to conclusion that Appellant was not eligible to submit the Resolution Plan, in view of the relevant Sections of the 2002 Act as well as the restrictions on the Appellant by its own bye-laws, which we have already discussed at length in our earlier discussions."

(Emphasis Supplied)

16. In such circumstances referred to above, the appellant is here before us with the present appeal.

#### B. SUBMISSIONS ON BEHALF OF THE APPELLANT

17. Mr. Mukul Rohatgi and Mr. Rajiv Shakhder, the learned senior counsel appearing for the appellant, submitted that the appellant is not barred from submitting a resolution plan or from investing in the corporate debtor. They argued that, as per the object clause in the bye-laws, the appellant is entitled to purchase, produce, procure, and distribute the "agro-products" for the processing of the product and byproduct. It also proposes to make available to its members the various modern techniques used in the processing of agro-products and other activities in the processing sector.

18. The learned counsel argued that the appellant had carried out certain amendments to its bye-laws, particularly to Clause 52, as mentioned above, to include the investment in the shares, securities, assets of any subsidiary institution or any other institution in the same line of business as the appellant. It is argued that the sole purpose of the amendment was to bring the bye-laws of the appellant in consonance with the 2023 amendment to Section 64 of the 2002 Act and permit the appellant to invest in an entity "in the same line of business".

19. The learned counsel also relied on the note submitted by the central registrar before us in order to argue that the appellant is not barred from submitting a resolution plan under Section 30(2)(e) of the IBC, more particularly on the following submissions of the central registrar in his note:

(a) That there is no express or implied bar or blanket restriction under the 2002 Act for any MSCS to invest its funds by following the process provided in IBC;

(b) That the provisions of the 2002 Act do not per se prohibit an MSCS from participating as a resolution applicant in a CIRP for the purpose of acquiring shares, securities, and assets of a corporate debtor, as long as it is in conformity with (i) Section 64 of the 2002 Act, (ii) the bye laws of the society, and (iii) Section 29A of the IBC;

(c) That an MSCS registered under the 2002 Act functions as an autonomous cooperative organisation and is required to function as per the provisions of the 2002 Act and the approved bye-laws of the society.

20. The learned counsel further contended that the principal ground for the rejection of the resolution plan of the appellant by the respondent no. 1 - RP was that the bye-laws of the appellant did not permit it to invest in the corporate debtor, and that the appellant was not in the same line of business as the corporate debtor. They submitted that the expression "in the same line of business" has not been defined in the Act, and so, resorting to the ordinary meaning it would mean to engage in a business which is the same or similar in nature.

Developing on this context, the learned counsel argued that in the present case, the appellant has a textile vertical in the name and style of 'Nirmal Textile' which would be within the phrase of "in the same line of business" for the purpose of investment/acquisition of the corporate debtor, which also is in the textile business, as a going concern. Further, it was argued that the appellant's bye-laws has the objective of being in the business of purchase, process, procure in the "agro products", which would also include the textile business in it, and therefore having amended Clause 52 of its bye-laws in line with the amended Section 64(d) of the 2002 Act, the appellant cannot be said to be not in the same line of business as the corporate debtor.

#### C. SUBMISSIONS ON BEHALF OF THE RESPONDENTS

21. Mr. Navin Pahwa, the learned senior counsel appearing for the respondent no. 1 - RP, submitted that the resolution plan submitted by the appellant did not meet the requirement of Section 32(2)(e)

of IBC since the investments made by an MSCS are governed by Section 64 of the 2002 Act, according to which an MSCS can only invest in share securities or assets of: (i) a subsidiary institution, or (ii) any other institution in the same line of business. He submitted that prior to investing its resources, the appellant must demonstrate that the institution it is investing in is either its subsidiary or that it is "in the same line of business".

22. In the aforesaid context, the learned senior counsel made a twofold argument: (i) that the corporate debtor is not an existing subsidiary institution of the appellant and (ii) that the corporate debtor is not in the same line of business as the appellant. While dealing with the first argument, the learned counsel submitted that the corporate debtor is admittedly not a subsidiary institution of the appellant.

He rebutted the appellant's submission that upon the approval of the resolution plan, 100% of the shares of the corporate debtor would vest in the appellant, making the corporate debtor a subsidiary (in the future), and consequently, investment therein would be permissible under Section 64(d). According to the learned counsel, such an interpretation is untenable and against the plain language of Section 64(d).

23. While dealing with the second fold of the argument, the learned counsel submitted that as regards the appellant's contention that it is an investment in an institution in the "same line of business", the appellant would not be eligible to invest in the corporate debtor inasmuch as, the two entities i.e., the appellant and the corporate debtor are not in the same line of business.

The learned counsel submitted that the appellant is predominantly involved in financial services and that its textile unit is not a separate body corporate, nor is the resolution plan submitted under the name of 'Nirmal Textile'. It was argued that, in terms of the appellant's byelaws, it is involved in the processing of agro-based products, and not in their manufacturing. According to him, Nirmal Textiles is merely a unit of the appellant cooperative society and that the textile manufacturing is not the main line of business of the appellant.

24. Mr. Neeraj Kishan Kaul, the learned senior counsel appearing for the respondent no. 2 - Successful Resolution Applicant, submitted that the appellant lacks locus to maintain the present appeal as the appellant was never a resolution applicant within the meaning of Section 5(25) of IBC as its resolution plan was not legally capable of being placed before the COC owing to clear statutory prohibition under Section 64(d) of the 2002 Act and limitations under its byelaws.

25. Mr. Kaul submitted that the appellant is barred by Section 64(d) of the 2002 Act, as the corporate debtor is neither a subsidiary institution of the appellant nor will it come under the phrase "any other institution in the same line of business". It was submitted that the corporate debtor is engaged in the manufacturing and dyeing of man-made fibre/viscose, which is substantially an industrial and chemically driven manufacturing activity. Whereas the appellant is a credit co-operative society whose predominant business activity is in finance. The learned counsel submitted that even the textile unit of the appellant, namely, Nirmal Textile, is limited only to the processing of agro-products, and not industrial manufacturing of the same.

26. The learned counsel further submitted that the appellant's main business is to render banking and financial services to its members. Its agro-processing activity is incidental and carried out through a small internal vertical called Nirmal Textiles. The learned counsel also submitted that on one hand the appellant's business is agro based i.e., procured from agricultural sources, on the other hand, the corporate debtor's business is industrial manufacturing of viscose/man-made fibre which is chemically processed synthetic product.

As per the learned counsel, this is entirely different in nature, scale, technology, and regulatory environment as compared to agro-processing, as is being undertaken by the appellant through its internal vertical, Nirmal Textile. He contended that the corporate debtor's activities involve man-made fibres and processing such fibres into fabrics, which processes are not agrobased but industrial manufacturing of synthetic and blended textiles. Thus, the corporate debtor's industry does not align with Clause 5(s) of the appellant's byelaws.

27. Further, the learned counsel argued that the Financial Statements of the appellant for FY 2023-24 would indicate that income generated from the appellant co-operative society's financial services is to the tune of Rs. 194.27 crore, whereas the income generated from its agro-based processing unit i.e. Nirmal Textiles is to the tune of a loss of Rs. 3.37 crore.

28. To further demonstrate that the appellant and the corporate debtor are not in the same line of business, the learned counsel relied on one SEBI Circular dated 06.07.2021, which defined the phrase "in the same line of business" in context of the delisting of a listed subsidiary company wherein it is required, inter alia, that both entities must fall under the same digit NIC code. Under the NIC code, the appellant would fall into NIC 649; Nirmal Textile would fall under NIC 01632; and the corporate debtor would fall under NIC 131/139/203. Thus, none of them would fall under the same NIC code. The learned counsel submitted that while the SEBI Circular applies specifically to listed companies, the underlying principles, particularly the reliance on NIC Codes and revenue/asset linkage, provide a useful, relevant and objective benchmark.

29. Mr. Gopal Jain, the learned senior counsel, appearing for the respondent no. 3 - CoC submitted that the mere fact that the appellant is running a textile unit cannot bind the CoC if the appellant is otherwise ineligible in law to run the textile unit, contrary to the provisions contained in its own bye-laws. He submitted that the CoC, in its commercial wisdom, took a decision by a majority to consider and approve the resolution plan submitted by the respondent no. 2 and at the same time decided not to consider the resolution plan submitted by the appellant, being ineligible for the purpose of revival of the CD in its best judgment.

He further contended that the appellant is credit cooperative society limited and is in the business of giving credit to its members, therefore, the appellant as per the bye-laws and Section 64(d) of the 2002 Act cannot involve itself in any other line of business other than giving credit to its members, its existing subsidiary institution or any other institution which is in the same line of business i.e., an MSCS that is giving credit to its own members.

#### D. ANALYSIS

(I) Meaning and scope of the expression "any other institution in the same line of business".

30. Section 30 of the IBC deals with the submission of the resolution plan. As per Section 30(2)(e), the RP is required to confirm that each resolution plan inter alia does not contravene any provisions of the law for the time being in force. Such a law, for the time being in force in the present case, is Section 64 of the 2002 Act, which deals with the investment of funds by an MSCS and certain restrictions therein. As per Section 64(d), an MSCS may invest or deposit its funds inter alia in shares, securities, or assets of a subsidiary institution or "any other institution in the same line of business as the MSCS". The relevant extract from Section 30 of the IBC and Section 64 of the 2002 Act is as under:

"IBC 2016 30. Submission of resolution plan.-

(1) A resolution applicant may submit a resolution plan [along with an affidavit stating that he is eligible under section 29A] to the resolution professional prepared on the basis of the information memorandum.

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan-

(e) does not contravene any of the provisions of the law for the time being in force; MSCS Act, 2002

64. Investment of funds.- A multi-State co-operative society may invest or deposit its funds -

(d) in the shares, securities or assets of a subsidiary institution or any other institution [in the same line of business as the multi-State co-operative society] or

(f) in such other manner as may be determined by the Central Government.]"

(Emphasis Supplied)

31. According to Section 64(d) of the 2002 Act, an MSCS may invest or deposit in the shares, securities, or assets of: (i) a subsidiary institution, or (ii) any other institution in the same line of business. Thus, prior to investing its resources, an MSCS must demonstrate that the institution it is investing in is either its subsidiary institution or that, in the case of any other institution, it is in the "same line of business".

32. The plain reading of the interpretation clause in the 2002 Act, indicates that it does not define the expression "same line of business". However, the deliberations of the parliamentary committee around the aims and objectives of including this phrase in the statute guide us to its meaning and scope.

33. The Joint Parliamentary Committee (JPC), while examining the amendment to Section 64(d) of the 2002 Act, noted that the existing provision permitting investment in "any other institution" was openended in nature and had given rise to concerns of misuse. The Ministry of Cooperation, in its comments, specifically highlighted that the absence of any limiting standard had enabled certain societies to deploy funds in a manner that did not align with prudential considerations. The concern was expressed based on the experience of improper and unsafe investments by MSCSs, thereby necessitating discipline in the investment regime.

The rationale of the amendment was tied to the broader objective of ensuring the safety and security of members' funds and strengthening governance standards. The Committee noted that several provisions in Section 64 of the 2002 Act, including clause (d), were susceptible to abuse due to their wide and undefined nature. The introduction of restrictions, including the phrase "same line of business" in Section 64(d), formed part of a larger legislative attempt to curb the misuse of society's funds, prevent risky investments, and bring about overall financial discipline in the functioning of MSCSs. The relevant extract from the JPC report dated 15.03.2023 is as under:

"In the existing MSCS Act, 2002, Section 64 (f) provides that an MSCS may invest or deposit its funds 'in such other modes as may be provided in the bye-laws'. This leaves scope for investment into dubious entities & fraudulent investment. In the amendment bill, clause 25 (section 64) is being proposed which will substitute in Section 64(f) the words "in such other mode as may be provided in the byelaws" with "in such other manner as may be determined by Central Govt." This will prevent misuse and fraudulent investments.

Since the future emerging instruments /avenues for investments may vary from time to time, flexibility is required for the Central Government to determine the manner in which such investments can be made; keeping the overall interest of Cooperatives in mind. The phrase 'any other institution' in 64(d) is open-ended and has been misused by some societies for making dubious investment [sic]. The proposed amendment will help in preventing such kinds of investments."

(Emphasis Supplied)

34. Further, during the consultation process, the stakeholders, including one KRIBHCO, raised specific objections to the proposed restriction. It was contended that limiting investments to the "same line of business" would restrict the diversification and expansion into new sectors, which, according to them, was contrary to the Government's broader policy objective of promoting growth in the cooperative sector. They advocated for retention of flexibility by allowing investments in any business permitted under the bye-laws of the society.

The Ministry of Cooperation, however, did not accept this objection and clarified that the amendment was necessary to address misuse arising from the unregulated nature of the earlier provision, while still preserving the autonomy of societies through their bye-laws in determining their business domain. It was emphasised that the line of business of an MSCS is itself drawn through its bye-laws, and therefore, the restriction operates within the framework already chosen by the society. The relevant extract from the JPC report dated 15.03.2023 is as under:

"Since the future emerging instruments/avenues for investments may vary from time to time, flexibility is required for the Central Government to determine the manner in which such investments can be made; keeping the overall interest of Cooperatives in mind. Therefore, changes have been proposed in the interest of safety and security of deposits of the members. The businesses to be carried out by an MSCS are described in the bye-laws and the societies can frame their bye-laws democratically and autonomously to decide their line of business. There is no contradiction as the subsidiary institution as per section 19 has also to be in furtherance of the stated objects of the society which are in the bye-laws."

(Emphasis Supplied)

35. Upon considering the concerns expressed by stakeholders and the response of the Ministry, the JPC finally accepted the amendment. Thus, from the above, it appears that the insertion of the phrase "in the same line of business" was intended to address the following:

(i) The earlier provision, i.e., "any other institution," was openended and had been misused by some societies for making dubious investments in any other institution;

(ii) This had to be ensured by limiting the investments to institutions falling within the line of business as reflected in the bye-laws of the MSCS;

(iii) While at the same time preventing diversion of funds into unrelated investments and securing the interest and safety of deposits of the members.

(iv) However, an MSCS was still empowered to frame or amend its bye-laws democratically and autonomously to decide its line of business.

36. In light of the deliberations of the JPC, it is clear that the determination of whether an institution operates in the same line of business as an MSCS must be made with reference to its byelaws, which constitute the decisive charter document in this regard. It is pertinent to note that every MSCS is required to frame its bye-laws in accordance with the provisions of the 2002 Act and the rules made thereunder, particularly Section 10(2), which, inter alia, provides for the inclusion of an object clause in the bye-laws. Further, the 2002 Act also empowers an MSCS under Section 11 to amend its bye-laws, including its objects, in accordance with the prescribed procedure therein.

37. In construing the expression "same line of business", which is not defined under the 2002 Act, some guidance may also be drawn from analogous regulatory frameworks to discern its ordinary and contextual meaning in addition to the JPC report. In this regard, reference may be made to the approach adopted in the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021, wherein the determination of the question whether two entities are in the same line of business is assessed on the basis of their principal or predominant economic activities, including classification under the National Industrial Classification (NIC) Code.

This indicates that the expression "same line of business" refers to a substantive sameness or close nexus in core business activities, and not a remote or incidental connection. However, at this juncture, it is important to note that such guidance to SEBI Regulation is only illustrative. In the present context, the determination must ultimately be made with reference to the objects and business activities as set out in the bye-laws of the MSCS, which govern the inquiry.

In view of the aforesaid legislative intent underlying the 2023 amendment, and the guidance available from the JPC deliberations, it becomes evident that the expression "any other institution in the same line of business" under Section 64(d) is not to be construed in an expansive manner. It requires that, before deploying its funds, an MSCS must satisfy a threshold condition that the proposed investment aligns with its own line of business as reflected in its bye-laws.

This requirement keeps a check on the manner in which funds of members of MSCS are being utilised and is intended to prevent diversion into activities that are unrelated or only remotely connected to the core business that an MSCS is entitled to do as per its bye-laws. Consequently, the determination of eligibility under Section 64(d) must involve an examination of the objects and functions contained in the bye-laws of the MSCS and a comparison thereof with the business activities of the target institution, so as to ascertain whether there exists a predominant or substantial sameness between the two.

(II) Applicability of the standard of "same line of business" to the facts of the present case.

38. Adverting to the facts of the present case, it is imperative to first set out the objects and functions as stated in the bye-laws of the appellant, since the determination of "line of business" must necessarily flow from the same. Clause 5 of the bye-laws of the appellant deals with the objects and functions, which reads as under:

**"5. OBJECTIVES AND FUNCTIONS:**

The following are the objectives & functions of the society:

- a. To encourage the members to thrifty and abide by the cooperative principles.
- b. To Accept Deposit from Members and Nominal Members and advancing Loans to Members.
- c. To own land or building for the use of the society with prior permission of Central Registrar of the society.
- d. To arrange for the recovery of the loans by disposal of the movable or immovable property that has been pledged towards the society against loans receivables.

- e. To manage the properties of the society, maintain it and to run it smoothly.
- f. To serve the interest of the poor and middle class of people more than one state by admitting as members.
- g. To solve the Housing Problems of the Members, Employees and the Agents of the Society, for the purpose Purchase Land and Construct Houses for them.
- h. To enhance or build the social, ethical and educational level of the members and to bring about religious awareness/movement amongst them.
- i. To make available the services of health, nutrition and diet, services shall be to the member, employees, representatives and general public from the humanitarian point of view of the society.
- j. To arrange for the transportation or conveyance for the members, employees, and representatives of every branch of the society, also conveyance to and from school for their wards and other children.
- k. To provide for financial aid for the purposes of better education of the wards out of Nagpur and also provide for their accommodation in hostels and provide them with Libraries.
- l. To construct godowns for storage of farm produce and sanction loans of 50% of the price of such stored produce.
- m. To provide service of ambulance and funeral cortege vans. To construct & run multi-specialty hospitals.
- n. To form production and consumer programmes for the farmer members of the society.
- o. To organise Medical camps in the Rural & Urban Areas.
- p. Opening Branches and Sub-Offices in the Area of Operation.
- q. To provide Safe Deposits Vaults to member.
- r. To do all such acts for the promotion and enhancing the Socio Economic Status of the members of the Society.
- s. To purchase, produce, procure, distribute the "agroproducts" for the processing of product and by-product in order to make the same available to its members.
- t. To enter into Partnership with other co-operative societies to promote or expand the society business."

(Emphasis Supplied)

39. Further, Clause 6(B) of the bye-laws provides that the funds of the appellant may be utilised for carrying out the aforesaid objects and functions, which reads as under:

"6. RAISING OF FUNDS:

B) The funds of the society shall be utilised for the attainment of the objects of the society as specified in these bye-laws."

(Emphasis Supplied)

40. Having regard to the aforesaid objects and the permitted utilisation of funds, the line of business of the appellant must be understood from a cumulative reading of these clauses. It is in this background that the second limb of Section 64(d), namely, whether the corporate debtor is in the same line of business as the appellant, is required to be examined.

41. For this purpose, the line of business of the appellant must be understood from the objects as stated in its bye-laws as a whole. Clauses 5(a) to 5(r) show that the appellant is primarily a cooperative society engaged in accepting deposits, advancing loans, and providing various facilities to its members, such as housing, healthcare, education, and other welfare activities. These clauses indicate that the main business activity that the appellant is entitled to carry out as per the bye-laws is that of a financial service provider and member-oriented co-operative, and not a standalone industrial manufacturing entity.

42. A careful reading of the relevant clauses of objects and functions further clarifies this position. Clause 5(b) provides for accepting deposits from members and advancing loans, forming the core of

its financial activity. Clause 5(d) enables recovery of such loans through the disposal of pledged assets, which is incidental to its lending function.

Clause 5(g) relates to solving housing problems of members through acquisition of land and construction, while Clauses 5(h), 5(i), 5(j) and 5(k) respectively deal with social, educational, medical, transport and welfare services for members and their families. Clause 5(q), which provides for safe deposit vaults, also falls within the domain of financial services. These Clauses, when read together, show that the business activities that the appellant is entitled to do as per the bye-laws are centred around financial intermediation and member welfare, and not industrial manufacturing.

43. Thus, when the bye-laws are read in their entirety, the appellant's line of business is predominantly that of a financial and member-oriented co-operative, with limited engagement in agro-based processing activities. It cannot be said that the appellant is engaged in industrial manufacturing activities. This understanding assumes significance while examining whether the business of the corporate debtor bears a substantial or predominant sameness so as to fall within the expression "same line of business" under Section 64(d).

44. Clause 5(s) must be read in this backdrop as argued by the counsel for both parties. It permits the appellant "to purchase, produce, procure, distribute the agro-products for the processing of product and by-product". It further provides that "it is also proposed to make available to members modern technique used in processing of agro product and other activities in processing sector". From a plain reading, two aspects emerge. First, the permissible business activity under Clause 5(s) of the appellant's bye-laws is centred around "agro-products", i.e., products derived from agriculture. Secondly, the role of the appellant is to facilitate the processing of such agro-products and to support such processing by making available modern techniques to its members.

Thus, the clause does not envisage standalone industrial manufacturing across all categories, but confines the activity to agro-products and allied processing, coupled with technical support to its members within that sector. Therefore, Clause 5(s) permits processing activity, but only in connection with agro-products and within the processing sector linked to such products. Further, Clause 5(t) permits the appellant to enter into a partnership with other "co-operative societies" to promote or expand its business. This provision is restricted in terms of the nature of the entity, being confined to other co-operative societies only and not companies like corporate debtors.

45. In contrast, the corporate debtor is engaged in the business of manmade fibre/viscose-based textiles, which involves synthetic or semi-synthetic raw materials. This is distinct from agro-based processing, which the appellant is permitted to undertake under the bye-laws. Although both may broadly fall under the textile sector, yet the actual nature of their activities is different. One is agro-product processing, while the other is synthetic or semisynthetic fibre manufacturing. Under the second limb of Section 64(d), the requirement is for predominantly or substantially the same or closely related business activities. Such sameness is not present in the present case. Thus, it can be said that the processing activity contemplated in Clause 5(s) is integrally linked to agroproducts and not to processing in general.

46. Therefore, applying the standard of the same line of business, it cannot be said that the appellant and the corporate debtor are in the same line of business. As far as the reasoning of the NCLAT on the aforesaid aspect is concerned, we are in agreement with the same, inasmuch as the appellant cannot be said to fall within the second limb of Section 64(d) on the touchstone of "same line of business".

However, the NCLAT went one step further in observing that the income earned from the financial business was Rs. 194.27 Cr., whereas Nirmal Textile incurred a loss of Rs. 3.37 Cr., to arrive at the conclusion that the appellant is predominantly involved in the financial business and not in the textile business. We must clarify that the revenue earned or profit/loss incurred has no relevance in determining the standard of the same line of business, which necessarily has to be determined through the bye-laws of the MSCS only.

47. At this juncture, it is also imperative for us to address one further argument of the appellant, wherein it has been contended that it had carried out certain amendments to its bye-laws, particularly to Clause 52, so as to incorporate the verbatim language of Section 64(d) therein. It was argued that the object of such an amendment was to bring the bye-laws in consonance with the 2023 amendment to Section 64, thereby enabling the appellant to invest in an entity in the same line of business. On this basis, it was submitted that once Clause 52 stood amended, the appellant could not be held to be

outside the same line of business as the corporate debtor. However, this contention does not merit acceptance.

48. In the first place, it is an admitted position that although the certificate of registration of amendment dated 24.01.2024 was available with the appellant, yet the same was not placed before the NCLT or the NCLAT. In the absence of such material, both the forums proceeded on the basis that the amendment had not come into effect as on the date of submission of the resolution plan. The appellant, having failed to place the said document at the appropriate stage despite due opportunity, cannot now be permitted to rely upon it. The attempt to introduce the same at this stage by way of an application for production of additional documents dated 31.08.2025 does not satisfy the well-settled requirements under Order XLI Rule 27 of the Code of Civil Procedure, 1908, and is accordingly liable to be rejected.

49. Secondly, even assuming that such an amendment were to be taken on record, though it is not, it would not advance the case of the appellant on the issue of the same line of business. This is because the amendment to Clause 52 merely reproduces the language of Section 64(d) and governs the manner in which funds may be invested. It does not, in any manner, amend, alter or expand the objects and functions of the appellant as contained in Clause 5 of the bye-laws, which in substance determines the nature and scope of its business activities. In the absence of any corresponding amendment to the object clause so as to bring the appellant's permissible activities in alignment with those of the corporate debtor, the requirement of being in the same line of business cannot be said to be satisfied merely by adopting the statutory language of Section 64(d).

#### E. CONCLUSION

50. In view of the foregoing discussion and considering the totality of the circumstances, the inevitable conclusion on the position of law is that Section 64(d) of the 2002 Act permits an MSCS to invest or deposit its funds in two distinct categories of institutions: (a) a subsidiary institution, and (b) any other institution in the same line of business. As per the JPC Report dated 15.03.2023, the second limb, i.e., "any other institution in the same line of business", was introduced as a restrictive standard to address the misuse of the earlier open-ended provision and restrict the dubious or fraudulent investments. This expression requires a substantial or predominant, or closely related sameness in business activities, which must be determined with reference to the objects and functions contained in the bye-laws of an MSCS.

51. Accordingly, the application for withdrawal is allowed, and the present appeal stands dismissed as withdrawn. It is needless to clarify that the CIRP of the corporate debtor shall continue in accordance with the provisions of IBC.

52. At this stage, after the Judgment was pronounced, Mr. Navin Pahwa, the learned Senior counsel appearing for the Resolution Professional (RP) submitted that the under the Order of this Court dated 13-10-2025, the Committee of Creditors (CoC) was directed to deposit an amount of Rs.2,00,00,000/- (Rupees Two Crore) towards the Corporate Insolvency Resolution Process (CRIP) costs.

53. He brought to our notice that CoC has deposited Rs.1,63,42,661.15/- The CoC has to still deposit the balance amount of Rs.36,57,338.85/-.

54. Since we have now clarified that the CRIP shall continue in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC), the RP can take up the aforesaid issue with the Adjudicating Authority.

55. The pending applications, if any, shall stand disposed of.

.....J. (J.B. Pardiwala)

.....J. (K.V. Viswanathan)

New Delhi;

April 09, 2026.

Source disclosure: Complete sanitized public judgment text retained for research; official-primary replacement remains pending.

Disclaimer: General information only. Verify the current legal position and obtain professional advice before acting.