

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL, NEW DELHI**

**INTERLOCUTORY APPLICATION NO.                      OF 2025**

**IN**

**COMPANY APPEAL (AT) (INSOLVENCY) NO. 406 OF 2022**

**IN THE MATTER OF:**

**Mr. Hitesh Goel**

Interim Resolution Professional of M/s Supertech Limited,

21<sup>st</sup>- 25<sup>th</sup> Floor, E-Square, Plot No. C2, Sector- 96,

Noida, Gautam Buddha Nagar,

Uttar Pradesh- 201303

IP Registration No. IBBI/IPA-001/IP-P01405/2018-2019/12224

**...APPLICANT**

**AND**

**IN THE MATTER OF:**

M/s. Supertech Limited

(a company under corporate insolvency resolution process)

Having its registered office at:

1114, Hemkunt Chambers,

11<sup>th</sup> Floor, 89, Nehru Place, New Delhi- 110019

**...Corporate Debtor**

**AND IN THE MATTER OF:**

**UNION BANK OF INDIA**

**...Financial Creditor**

**Versus**

**M/S. SUPERTECH LIMITED**

**...Corporate Debtor**

**I.A NO.                      OF 2025**

**INTERLOCUTORY APPLICATION (SEEKING DIRECTIONS) ON BEHALF OF  
THE APPLICANT UNDER RULE 11 READ WITH RULE 31 OF THE NATIONAL  
COMPANY LAW APPELLATE TRIBUNAL RULES, 2016**

**PAPER BOOK**

**(FOR INDEX KINDLY SEE INSIDE)**

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PLACE: NEW DELHI

DATED: 14.04.2025



**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
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**INTERLOCUTORY APPLICATION NO.      OF 2025**

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**IN THE MATTER OF:**

**Mr. Hitesh Goel**

Interim Resolution Professional of M/s Supertech Limited

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Having its registered office at:

1114, Hemkunt Chambers,

11<sup>th</sup> Floor, 89, Nehru Place, New Delhi- 110019

**... Corporate Debtor**

**AND IN THE MATTER OF:**

**Mr. Ram Kishore Arora**

**...Appellant**

**Versus**

**M/S. UNION BANK OF INDIA & Ors**

**...Corporate Debtor**

**MEMO OF PARTIES**

**Mr. Hitesh Goel**

Interim Resolution Professional of M/s Supertech Limited,

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IP Registration No. IBBI/IPA-001/IP-P01405/2018-2019/12224

**... Applicant**

*Goel*

**Applicant**

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**Mr. Hitesh Goel**

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21<sup>st</sup>- 25<sup>th</sup> Floor, E-Square, Plot No. C2, Sector- 96,  
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11<sup>th</sup> Floor, 89, Nehru Place, New Delhi- 110019

**...Corporate Debtor**

**AND IN THE MATTER OF:**

**UNION BANK OF INDIA**

**...Financial Creditor**

**Versus**

**M/S. SUPERTECH LIMITED**

**...Corporate Debtor**

**APPLICATION ON BEHALF OF THE APPLICANT ABOVE NAMED  
UNDER SECTIONS 18, 19 AND 60 (5) OF THE INSOLVENCY &  
BANKRUPTCY CODE, 2016 READ WITH RULE 11 AND RULE 31 OF THE  
NATIONAL COMPANY LAW APPELLATE TRIBUNAL RULES, 2016 IN  
COMPANY APPEAL (AT) INSOLVENCY NO 406 OF 2022**

**MOST RESPECTFULLY SHOWETH:**

**DETAILS OF THE APPLICATION**

1. The present application is being filed on behalf of the Applicant under Section 60 (5) read with Section 19(2) of the Insolvency & Bankruptcy Code, 2016 ("Code") and Rule 31 of the National Company Law Appellate Tribunal Rules, 2016 seeking certain directions in furtherance of the order dated June 10, 2022 passed by this Hon'ble Tribunal in Company Appeal (AT) (Ins.) 406

Hitesh Goel 2022 ("Appeal").

2. The Applicant herein is the interim resolution professional ("IRP") of Supertech Limited ("Corporate Debtor") appointed vide order dated March 25, 2022 passed by the Hon'ble National Company Law Tribunal, New Delhi Bench-IV in CP (IB) No. 204/ (NI)/ 2021.
3. The Applicant humbly submits that the present application is filed seeking the following directions from this Hon'ble Tribunal:
  - (i) Permit the Applicant to utilize the funds contained in all accounts of the Corporate Debtor including the Free Account(s) and Freeze Accounts more fully defined hereunder and enlisted in Annexure- J towards meeting the going concern costs of the Corporate Debtor including unpaid CIRP Costs as per the Utilisation Mechanism set out in Annexure Q
  - (ii) Pass an appropriate order or direction directing the concerned parties to remove the lien on the Freeze Accounts and permitting the Applicant to utilise the funds lying in the Freeze Accounts for meeting the going concern costs of the Corporate Debtor including unpaid CIRP Costs as per the Utilisation Mechanism set out in Annexure Q;
  - (iii) Pass any further or other orders/directions as this Hon'ble Appellate Tribunal deems fit and proper in the facts and circumstances of the case.

#### **JURISDICTION OF THE BENCH**

4. The Applicant declares that the subject matter and the registered office of the Corporate Debtor is within the jurisdiction of the Hon'ble Appellate Tribunal. Further, the present application is filed in Company Appeal (AT) (Ins.) 406 of 2022 ("Appeal") which is currently pending on the file of this Hon'ble Tribunal. Hence, this Hon'ble Tribunal has jurisdiction to entertain the present application.
5. This Hon'ble Tribunal had as per its order dated 10 June 2022 directed the Applicant to approach this Hon'ble Tribunal for necessary instructions qua payments of *inter alia* CIRP Costs.

#### **LIMITATION**

6. It is hereby declared that the present application is within the limitation period.

#### **FACTUAL BACKGROUND**

  
 Hitesh Goel

IBBI/PA-001/IP-P01405/2018-2019/12224



7. The Corporate Debtor is a company incorporated under the Companies Act, 1956 and validly existing under the Companies Act, 2013 having its registered office at 1114, Hemkunt Chambers, 11<sup>th</sup> Floor, 89, Nehru Nagar, New Delhi-110019.
8. Union Bank of India ("UBI") had filed the company petition bearing CP (IB) No. 204/ (ND)/ 2021 ("**Insolvency Petition**") before the Hon'ble National Company Law Tribunal ("**Adjudicating Authority**") under Section 7 of the IBC against the Corporate Debtor for non-payment of outstanding debt.
9. By an order dated March 25, 2022 ("**Insolvency Admission Order**"), the Hon'ble Adjudicating Authority initiated the CIRP of the Corporate Debtor in the captioned petition filed by the Union Bank of India, the Financial Creditor herein. By the same Insolvency Admission Order, the Hon'ble Adjudicating Authority appointed the Applicant as the interim resolution professional ("**IRP**") of the Corporate Debtor. A copy of the Insolvency Admission Order passed by the Hon'ble Adjudicating Authority is annexed herewith and marked as **Annexure A**.
10. In this interregnum, the present Appeal was filed before this Hon'ble Tribunal challenging the Insolvency Admission Order. On April 12, 2022, this Hon'ble Tribunal after considering the Appeal, was pleased to pass an order directing the Applicant herein not to constitute the committee of creditors ("**CoC**") in respect of the Corporate Debtor.
11. By an order dated June 10, 2022 ("**Modification Order**"), this Hon'ble Tribunal modified the order dated April 12, 2022, and thereby allowed the Applicant to constitute the CoC for Project Eco Village-II ("**Project EV-II**") of the Corporate Debtor ("**EV-II CoC**"). For the other projects, i.e., Non-Eco Village II ("**Non-EV-II Projects**") the Hon'ble Tribunal directed that the Non-EV-II Projects be kept as ongoing projects and that the construction of the Non-EV-II Projects shall continue with overall supervision of the Applicant with the assistance of the ex-management and its employees and workmen. A copy of the Modification Order passed by this Hon'ble Tribunal is annexed herewith and marked as **Annexure B**.
12. It is pertinent to highlight that, this Hon'ble Tribunal vide the Modification Order was also pleased to hold that the CIRP has been initiated against the Corporate Debtor, as a whole, and encompasses all assets of the Corporate

Debtor including all bank accounts, which are to be managed by the Applicant herein. The relevant portion is extracted hereinbelow:

*"21. We are conscious of the fact that 'CIRP' has been initiated against the Corporate Debtor. 'CIRP' has commenced against all the projects of the Corporate Debtor. 'CIRP' encompasses all the assets of the Corporate Debtor including all Bank Accounts. The IRP has already been appointed and has taken steps by informing all concerned including Banks to add the name of IRP for operation of the Account. The Learned Counsel for the Appellant made submissions and also filed an I.A. No. 1468 of 2022 by which Resolution cum Settlement Proposal has been submitted by the Management with an object to carry out the construction of all the projects.*

*22. As noted above, the consequence of 'CIRP' is that all assets of the Corporate Debtor come in the control and management of the IRP. All bank accounts are to be operated with the counter signature of the IRP. No amount from any account can be withdrawn without the counter signature and permission of the IRP. IRP under the IBC has responsibility to run the Corporate Debtor as a going concern."*

13. Moreover, this Hon'ble Tribunal also passed a specific direction with respect to the bank accounts of the Corporate Debtor holding that all receivables in different projects shall be deposited in the relevant bank account pertaining to such project, in accordance with the guidelines contained in the Real Estate (Regulation and Development) Act, 2016 ("RERA"), out of which 70% of the funds shall be utilized for the purposes of completing construction, and appropriate directions would be issued in relation to the utilization of the remaining 30% of the funds. The relevant direction is extracted hereinbelow for ease of reference:

*"No account of Corporate Debtor shall be operated without the counter signature of the IRP. All expenses and payments in different projects, shall be only with the approval of the IRP. All receivables in different projects shall be deposited in the account as per 'RERA' Guidelines and 70% of the amount shall be utilized for the construction purpose only. With regard to the disbursement of rest of the 30 %, appropriate direction shall be issued subsequently after receiving the status report and after hearing all concerns."*

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Hitesh Goel

14. As the RERA registration had expired for most of the phases of the real estate projects of Corporate Debtor, the Applicant has been maintaining RERA type current account, for each real estate project of the Corporate Debtor, namely the Project Master Account, the RERA Type Separate Account, and the Free Project Account. The Project Master Account is the master collection account wherein 100% of the receivables from the allottees is deposited. The RERA Type Separate Account is the account where 70% of the amount realised from the allottees of the Project is to be deposited as per Section 4(2)(l)(D) of the RERA Act, and which is being utilized towards construction and development of the projects and proportionate land cost. The Free Project Account is the account where the 30% residual amount after transferring 70% of the amount is deposited.
15. Presently, the Corporate Debtor has 16 ongoing projects and is maintaining a total of 100 project specific accounts out of which 77 accounts are RERA type accounts. The remaining 23 accounts are normal accounts. The Applicant has been utilizing the amounts from the RERA Type Separate Account containing 70% of the funds towards construction costs.
16. While the Hon'ble Appellate Tribunal was seized of the matter, the Hon'ble Supreme Court by its order dated January 27, 2023, passed in *Indiabulls Asset Reconstruction Company Limited v. Ram Kishor Arora and Ors.* - Civil Appeal No. 1925 of 2023 ("Supertech SC Case"), passed the following directions:

*"Taking note of the submissions sought to be made in these matters, we are clearly of the view that as at present, the offers said to have been made by the prospective resolution applicants may be evaluated and may be placed for consideration before the NCLAT but beyond that process, we would request the NCLAT to keep the proceedings in abeyance and await further orders of this Court."*

A copy of the order dated January 27, 2023 passed by the Hon'ble Supreme Court is annexed herewith and marked as **Annexure C**.

17. By a subsequent order of January 31, 2023, this Hon'ble Tribunal adjourned the Company Appeal (AT) (Ins) No. 406 of 2022 *sine die* till further orders of

the Hon'ble Supreme Court. A copy of the order dated January 31, 2023, passed by this Hon'ble Tribunal is annexed herewith and marked as **Annexure D**.

18. The Supertech SC Case was then listed and heard by the Hon'ble Supreme Court on various occasions and finally on May 11, 2023, the Hon'ble Supreme Court, while considering the myriad issues involved in the appeal challenging "*project-wise insolvency/ reverse insolvency resolution process*," was pleased to not interfere with the directions contained in the Modification Order. A copy of the order dated May 31, 2023, passed by the Hon'ble Supreme Court is annexed herewith and marked as **Annexure E**.
19. Further, the Applicant has also preferred an application bearing I.A No. 2785 of 2023 before this Hon'ble Tribunal seeking necessary directions to complete the pending safety related works in the Corporate Debtor's projects. The Applicant prioritised the completion of these safety related works and utilized only funds from the RERA Type Separate Accounts and other free cashflow accounts. However, these funds were not enough to cover the costs of completion of the pending safety related works. Hence, this Hon'ble Tribunal vide its orders dated 27 July 2023, 18 September 2023, 22 November 2023, and 12 February 2024 has been pleased to permit the release of funds to the tune of INR 10 Crores from the Free Project Accounts towards the completion of fire safety works. A copy of the orders dated 27 July 2023, 18 September 2023, 22 November 2023 and 12 February 2024 are annexed herewith as **Annexures F, G, H and I** respectively.
20. It is submitted that apart from the above accounts, there are also certain accounts of the Corporate Debtor, containing funds which have been frozen due to lien imposed by various statutory authorities or institutional organizations prior to CIRP ("**Freeze Accounts**"). As on 7 March 2025, there are funds totalling to INR 4.61 Crores available in these accounts which may be utilized towards meeting the going concern expenses of the Corporate Debtor. It is humbly prayed that this Hon'ble Tribunal may be pleased to pass an order permitting the Applicant to utilize the funds available in the Free Project Accounts and Freeze Accounts in order to meet the going concern expenses of the Corporate Debtor. The details of the Freeze Accounts, and the amounts held thereunder are set out in **Annexure J** hereunder.



21. It is further submitted that, in respect of Project EV-II of the Corporate Debtor, as there existed a CoC, this Hon'ble Tribunal vide order dated 19 September 2024 held that CIRP cost as approved by the CoC may be credited from the Free Project Accounts with all necessary details and the report of expenses and payments received out of the said account shall be filed along with the report. A copy of the order dated 19 September 2024 is annexed herewith as **Annexure K**.
22. At this juncture, NBCC (I) Limited ("NBCC"), a public sector undertaking expressed its willingness to complete the construction of stalled/ incomplete projects of the Corporate Debtor including Project EV-II and accordingly filed its Terms of Reference ("NBCC Proposal") vide interlocutory application bearing IA No. 6557 of 2024 before this Hon'ble Tribunal.
23. This Hon'ble Tribunal, vide its order dated September 19, 2024, invited objections from stakeholders regarding NBCC's Proposal for project construction, leading to a directive for NBCC to submit a revised, detailed, project-specific proposal. In response, the NBCC filed its revised proposal on November 11, 2024 (this proposal along with the NBCC Proposal referred to as the "**Revised Proposal**").
24. Thereafter, on December 12, 2024, this Hon'ble Tribunal approved the Revised Proposal and appointed the NBCC as the PMC to construct and develop the 16 pending real estate projects of the Corporate Debtor ("**12 December Order**"). Under the 12 December Order, this Hon'ble Tribunal also directed the formation of an Apex Court Committee ("**ACC**") to oversee the projects entrusted to the NBCC, ensure proper utilization of funds, and protect the interests of all stakeholders. The Applicant herein was appointed as the Chairperson of the ACC. A copy of the order dated December 12, 2024, passed by this Hon'ble Tribunal is annexed herewith and marked as **Annexure L**.
25. That the Appellant/promoter herein, along with several other parties preferred appeals against the 12 December Order before the Hon'ble Supreme Court. The Appellant/promoter's appeal was numbered as Civil Appeal No. 2662 of 2025 ("**Promoter Appeal**") which was listed before the Hon'ble Supreme Court on 21 February 2025. On the said date, the Hon'ble Supreme Court was pleased to pass an order of stay in respect of the operation of the 12 December Order ("**SC Stay Order**"). A copy of the order dated February 21, 2025,

*H* Hitesh Goel

passed by the Hon'ble Supreme Court is annexed herewith and marked as **Annexure M**.

26. It is pertinent to highlight that in the SC Stay Order, the Hon'ble Supreme Court has stated that the primary issue for consideration will be whether the NBCC could have been awarded the work of construction under the 12 December Order. The Hon'ble Supreme Court has also granted liberty to all parties to submit counter proposals on completing the construction of ongoing projects. Therefore, it is humbly submitted that all issues relating to the completion of construction of the ongoing projects of the Corporate Debtor may be subject to the final outcome of the Promoter Appeal, and other connected appeals pending before the Hon'ble Supreme Court.
27. However, it is also pertinent to highlight that, in the SC Stay Order, the Hon'ble Supreme Court has expressly held that the Applicant herein, as the interim resolution professional of the Corporate Debtor is obligated to undertake duties and obligations assigned to him under the provisions of the Code, and that orders passed by the adjudicating authority relating to "*the functioning of the Corporate Debtor*", during the CIRP shall continue to operate. Therefore, the Modification Order passed by this Hon'ble Tribunal remains in force, and the present application which seeks directions in furtherance of the Modification Order, remains unhindered by the SC Stay Order.
28. Separately, it merits mention that the Hon'ble Supreme Court, in the SC Stay Order, specifically permitted this Hon'ble Tribunal to pronounce orders. Subsequently, this Hon'ble Tribunal passed an order on 18 March 2025 containing *inter alia* the following terms:

*"i. All projects of the corporate debtor are under the supervision of the IRP. It is the IRP who has to take steps regarding carrying out the construction and taking all necessary steps with the projects of the corporate debtor with the assistance of the appellant, its officers and employees.*

*8. The order dated 10.06.2022 passed by this Hon'ble Tribunal still being in operation, all concerned including the IRP has to take steps in accordance with the directions till any further orders are passed by the Hon'ble Supreme Court."*

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A copy of the order dated 18 March 2025 passed by this Hon'ble Tribunal is annexed herewith as **Annexure N**.

29. It is pertinent to highlight that the order dated 18 March 2025 expressly states that the Applicant herein is required to take necessary steps to keep the Corporate Debtor as a going concern. The said order further states that in view of the stay of the 12 December Order by virtue of the SC Stay Order, all parties are to act in accordance with the Modification Order previously passed by this Hon'ble Tribunal.
30. In this regard, it is reiterated that as per the Modification Order, this Hon'ble Tribunal was pleased to direct that all receivables in different projects of the Corporate Debtor shall be deposited in the relevant bank account pertaining to such project, in accordance with the guidelines contained in the RERA, out of which 70% of the funds shall be utilized for the purposes of completing construction, and appropriate directions would be issued in relation to the utilization of the remaining 30% of the funds.
31. Previously, the Applicant has preferred an application before this Hon'ble Tribunal in I.A 2785 of 2023 seeking release of funds available in the Free Project Accounts to complete safety related activities in the Non-EV-II Projects. This Hon'ble Tribunal vide its orders dated 27 July 2023, 18 September 2023, 22 November 2023, and 12 February 2024 has been pleased to permit the release of funds to the tune of INR 10 Crores from the Free Project Accounts towards the completion of fire safety works. A copy of the relevant orders are annexed herewith as **Annexure O (colly)**.
32. It is humbly submitted that as on 7 March 2025, the available balance in the various accounts of the Corporate Debtor amounts to INR 65.79 crores. However, the usable balance available in the RERA Type Separate Accounts is only around INR 7.35 crores, which is to be primarily used for completion of pending work in the units of homebuyers, who have paid this amount for the specific purpose of completing the construction of their respective units. The remaining funds of the Corporate Debtor are held either in the Free Project Accounts or in Freeze Accounts, which cannot be accessed without specific directions of this Hon'ble Tribunal pursuant to the Modification Order.

33. In this regard, the attention of this Hon'ble Tribunal is respectfully drawn to the order dated 18 March 2025, wherein this Hon'ble Tribunal was pleased to

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Hitesh Goel

observe that the IRP, being the authority responsible for keeping the Corporate

Debtor as a going concern, is required to take all necessary steps for meeting essential expenses, including disbursement of salaries. Pursuant thereto, the Hon'ble Tribunal directed the IRP to ensure that the outstanding salaries of employees for the months of September, October, and November 2024 be paid on or before 31 May 2025.

34. It is further submitted that in I.A. No. 862 of 2025, filed by the Shyam Vendors Association, seeking, inter alia, the release of outstanding amounts pertaining to the CIRP period, this Hon'ble Tribunal, vide the same order dated 18 March 2025, directed the IRP to verify and finalise the bills received from vendors/operational creditors and to commence payment of such verified bills in a phased manner.

35. It is respectfully submitted that, in addition to the outstanding employee salaries and vendor payments, there exists a further sum of unpaid CIRP costs amounting to INR 7.73 Crores, which is presently due and payable as on 31 March 2025. These costs are essential for enabling the IRP to continue maintaining the Corporate Debtor as a going concern in terms of the mandate of the IBC. The aforesaid CIRP costs include, inter alia, outstanding payments towards:

- a. Electricity dues for operational sites and offices;
- b. Amounts payable to software and technology service providers who maintain the IT infrastructure necessary for recording employee attendance and managing the Corporate Debtor's email and website systems;
- c. Dues owed to the file management agency responsible for maintaining physical records of homebuyer files, which are critical for the IRP to access and rely upon while responding to various legal proceedings instituted by homebuyers before different forums;
- d. Outstanding fees of legal counsel engaged by the IRP to represent the Corporate Debtor and the IRP before this Hon'ble Tribunal and other judicial/quasi-judicial forums;
- e. Pending dues of professional agencies who conducted due diligence exercises in connection with efforts to raise interim finance for the Corporate Debtor;
- f. Unpaid remuneration of consultants, statutory auditors, internal auditors and support staff assisting the IRP in day-to-day functioning;
- g. Basic operational expenses, including vendors supplying printing material, potable water, sanitation supplies, etc.

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Sh Goel

IR-P01405/2018-2019/12224



In the absence of timely clearance of the above CIRP-related dues, it would be extremely difficult for the IRP to discharge his statutory obligations effectively and to ensure that the Corporate Debtor continues as a going concern. A detailed computation of the unpaid CIRP costs is annexed herewith and marked as **Annexure P**.

36. The Applicant has prepared a Utilisation Mechanism for utilisation of the amounts available in the Free Project Account of the Corporate Debtor and the Freeze Accounts (as and when available). The said Utilisation Mechanism is annexed herewith as and marked as **Annexure Q** for the kind consideration of this Hon'ble Tribunal. Additionally, a summary of fund flow is presented herein below:

Summary of Fund Flow		
S. No	Particulars	Amount (INR Crores)
A. Balance as on 31 March 2025		
1	Funds Available in 30% Account	42.75
2	Fund Available in HO & other completed Projects	3.95
	<b>Total</b>	46.70
B. Outstanding payments as of 31 March 2025		
3	CIRP Expenses Including going Concern cost	11.06
	<b>Total</b>	11.06
C. Payments to be incurred for next 6 months		
4	CIRP Expenses Including going Concern cost	11.84
5	Payment to contractors	5.00
6	Fire Safety and Other Critical Infra Expenses	18.29
	<b>Total</b>	35.13
<b>D. Balance</b>		<b>0.51</b>

37. Therefore, in order to achieve sufficient cash flow to bear both the construction costs, as well as the going concern costs of the Corporate Debtor, the Applicant herein has preferred the present application seeking necessary directions from this Hon'ble Tribunal to utilize the amounts available in the Free Project Accounts and the Freeze Accounts (as and when available), for all unpaid

CIRP costs and going concern costs of the Corporate Debtor. It is humbly submitted that considering the current cash-flow, and fund crunch of the Corporate Debtor, this Hon'ble Tribunal may be pleased to permit the utilization of the funds from the Free Project Accounts and Freeze Accounts towards all such costs and expenses, at the corporate level, without tying the same to any specific project.

38. It is undertaken that the funds from the Free Project Accounts will be utilized towards meeting all going concern costs at the corporate level including salaries, professional fees, statutory compliances such as GST, TDS etc in the manner set out in the Utilisation Mechanism.
39. It is respectfully urged that from the facts set out above, the Corporate Debtor faces a grave cash crunch due to insufficient funds to meet its ongoing construction costs, as well as CIRP costs and going concern costs, which warrant urgent interim reliefs to be granted by this Hon'ble Tribunal.
40. It is humbly submitted that if the present application is disallowed, the CIRP of the Corporate Debtor would be gravely prejudiced, and the Applicant herein would be unable to discharge its functions entrusted to him by this Hon'ble Tribunal under the Modification Order, and by the Hon'ble Supreme Court under the SC Stay Order.
41. Therefore, it is respectfully urged that the Applicant has made out a prima facie case for grant of interim reliefs. Moreover, the balance of convenience rests with the Applicant, who will suffer irreparable loss and hardship if the present application is disallowed.
42. The present application is filed bona fide and in the interests of justice. The Applicant humbly craves leave of this Hon'ble Tribunal to file such further affidavits/applications/documents as may be necessary for the proper adjudication of the present matter.

In these circumstances, the Applicant is constrained to approach this Hon'ble Tribunal seeking urgent directions as prayed for hereunder. It is humbly prayed that this Hon'ble Tribunal may be pleased to grant the following reliefs:

- (i) Permit the Applicant to utilize the funds contained in all accounts of the Corporate Debtor including the Free Account(s) and Freeze Accounts



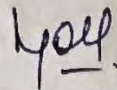
more fully defined hereunder and enlisted in Annexure- J towards meeting the going concern costs of the Corporate Debtor including unpaid CIRP Costs as per the Utilisation Mechanism set out in Annexure Q

- (ii) Pass an appropriate order or direction directing the concerned parties to remove the lien on the Freeze Accounts and permitting the Applicant to utilise the funds lying in the Freeze Accounts for meeting the going concern costs of the Corporate Debtor including unpaid CIRP Costs as per the Utilisation Mechanism set out in Annexure Q;
- (iii) Pass any further or other orders/directions as this Hon'ble Appellate Tribunal deems fit and proper in the facts and circumstances of the case.

### PRAYER

It is therefore most respectfully prayed that this Hon'ble Appellate Tribunal may be pleased to:

- (i) Permit the Applicant to utilize the funds contained in all accounts of the Corporate Debtor including the Free Account(s) and Freeze Accounts more fully defined hereunder and enlisted in Annexure- J towards meeting the going concern costs of the Corporate Debtor including unpaid CIRP Costs as per the Utilisation Mechanism set out in Annexure P.
- (ii) Pass an appropriate order or direction directing the concerned parties to remove the lien on the Freeze Accounts and permitting the Applicant to utilise the funds lying in the Freeze Accounts for meeting the going concern costs of the Corporate Debtor including unpaid CIRP Costs as per the Utilisation Mechanism set out in Annexure P.
- (iii) Pass any further or other orders/directions as this Hon'ble Appellate Tribunal deems fit and proper in the facts and circumstances of the case.



APPLICANT

Hitesh Goel

THROUGH IBB/I/PA-001/IP-P01405/2018-2019/12224



KHAITAN & CO. LLP

ADVOCATES FOR THE APPLICANT

MAX TOWERS, 7<sup>TH</sup> & 8<sup>TH</sup> FLOORS,

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STATE OF U.P

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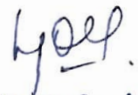
PLACE: NEW DELHI

DATED: 14 .04.2025

**DECLARATION BY APPLICANT**

The applicant above named hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals.

Verified presently at New Delhi on this 14 day of April 2025



**Hitesh Goel**

IBBI/PA-001/IP-P01405/2018-19/12224

**APPLICANT**



**COUNSEL FOR THE APPLICANT**

**VERIFICATION**

I, Hitesh Goel, the above-named Deponent do hereby verify that the contents of this Application have been read by me, and I have understood the same. I do hereby verify that the contents of the Application are true and correct to the best of my knowledge and belief and that no part of this Application is false, and no material facts have been concealed there from.

Verified presently at New Delhi on this 14 day of April 2025.



**Hitesh Goel**

IBBI/PA-001/IP-P01405/2018-19/12224

**APPLICANT**



**COUNSEL FOR THE APPLICANT**



BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL,

NEW DELHI, PRINCIPAL BENCH

COMPANY APPEAL (AT) (INS.) NO. 406 OF 2022

IN THE MATTER OF:

RAM KISHORE ARORA  
SUSPENDED DIRECTOR OF  
SUPERTECH LIMITED

...APPELLANT



*VERSUS*

UNION BANK OF INDIA & ANR.  
...RESPONDENTS

**AFFIDAVIT**

I, Mr. Hitesh Goel, s/o Mr. Sat Narain Goel, aged 42 years, having office at M/s. Supertech Limited-Non-Eco Village II ("Supertech"), having its office at: 21<sup>st</sup>-25<sup>th</sup> Floor, E-Square, Plot No. C2, Sector 96, Noida, Gautam Budha Nagar, Uttar Pradesh-201303, presently at New Delhi, do hereby solemnly affirm and state as hereinunder:

- I. That I am the Interim Resolution Professional, in the present Company Appeal matter and am well conversant with the facts and circumstances of the present case and as such competent to affirm this affidavit.

That the present affidavit is being filed pursuant to the order dated 10.06.2022 passed by this Hon'ble Tribunal in the present Company Appeal matter.

Hitesh Goel

IBBI/PA-001/IP-P01405/2018-2019/12224



3. That I have read and understood the contents of the accompanying Application, which has been prepared under my instructions, and I state that the said contents are true and correct to the best of my knowledge and belief.
4. That the annexures annexed to the present affidavit are true and copies of their respective originals.
5. Solemnly affirmed presently at New Delhi on this 14<sup>th</sup> day of April 2025.

*H Goel*

**DEPONENT**

Hitesh Goel

IBBI/PA-001/IP-P01405/2018-2019/12224

### VERIFICATION

I, the deponent abovenamed do hereby verify that the contents of foregoing affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

**14 APR 2025**

Verified presently at New Delhi on this      day of April 2025.

I identified the deponent who  
has signed in my presence



**14 APR 2025**

*H Goel*

**DEPONENT**

Hitesh Goel

IBBI/PA-001/IP-P01405/2018-2019/12224

**ATTESTED**

**MANISH ARYA**  
NOTARY PUBLIC, DELHI  
GOVT OF INDIA

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
BENCH-VI**

**IB-204/(ND)/2021**

Section: Under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

**In the matter of:**

**Union Bank of India**

Through its Chief Manager  
Union Bank of India,  
Stressed Assets  
Management Vertical Branch,  
M-93 Connaught Place,  
New Delhi - 110001

Applicant/Financial Creditor

**Versus**

**M/s Supertech Limited**

Registered Office At:  
1114, Hemkunt Chambers,  
11th Floor, 89, Nehru Place,  
New Delhi- 110019

...Respondent/ Corporate Debtor

IB-204/ND/2021



**Coram:****SHRI. P.S.N. PRASAD, Hon'ble Member (Judicial)****SHRI. RAHUL BHATNAGAR, Hon'ble Member (Technical)****Counsel for Petitioner/Financial Creditor:** Adv. Alok Kumar**Counsel for Respondent/Corporate Debtor:** Adv. Kanishk Khetan**ORDER**

**Per SHRI. P.S.N PRASAD, MEMBER (JUDICIAL) &**  
**SHRI.RAHUL BHATNAGAR, MEMBER (TECHNICAL)**

**Date:25.03.2022**

1. This is an application filed by Union of India to initiate corporate insolvency resolution process ("CIRP") against M/s Supertech Ltd. under Section 7 of the Insolvency and Bankruptcy Code 2016 ("the Code") for the alleged default on the part of the Respondent in settling an amount of Rs. 431,92,53,302 ( Four Hundred Thirty One Crore Ninety Two Lakhs Fifty Three Thousand Three Hundred and Two Rupees only) as on 31.01.2021. The details of transactions leading to



the filing of this application as averred by the Applicant are as follows:

- That the Corporate Debtor approached various financial institutions in 2013 including the Financial Creditor, to avail a credit facility of Rs. 350 Crores from a consortium of banks; out of which the exposure of the Financial Creditor i.e. the Lead Bank was Rs. 150 Crores. The purpose of availing the said loan amount was to part finance the development of the Corporate Debtor's Project namely Eco Village II located at Group Housing Plot No. GH-01, Sector 16B, Greater Noida (West), Uttar Pradesh at an estimated project cost of Rs. 1106.45 Crores.
- That vide sanction letter dated 19.10.2013 and revised letter dated 16.12.2013, the Respondent was granted credit facility of Rs. 150 Crores for the development of Eco Village II Project.
- The in pursuance to the loan agreement which was executed between the Applicant along with other Banks and the Respondent, the Respondent had deposited the title deeds of the property bearing address - Group Housing



Plot No. GH-01, Sector-16B, Greater Noida, Uttar Pradesh for creating an equitable mortgage on the said property vide Memorandum of Deposit of Title Deeds dated 30.12.2013.

- That the Corporate Debtor again approached the Financial Creditor and Bank of Baroda (formerly known as Vijaya Bank) for part financing the construction of Phase-II of this Project. The Financial Creditor and Bank of Baroda agreed to extend the second credit facility for Rs. 200 Crores to the Respondent out of which the total exposure of the Financial Creditor was Rs. 100 Crore. The credit facilities were granted to the Respondent by the Applicant vide sanction letter dated 21.11.2015 which was revalidated vide sanction letter dated 11.08.2016. The Respondent, Applicant and Bank of Baroda entered into a Construction Facility Agreement dated 07.09.2016. In order to secure the credit facility from the Applicant and Bank of Baroda, the Corporate Debtor delivered the Title Deeds of the Subject Property for creation of mortgage on pari-passu basis.
- That the Corporate Debtor was under an obligation to make timely repayment towards the Principal and the Interest



thereon within the stipulated period to the Financial Creditor, without any delay, demur or protest. However, despite various reminders and requests made by the Financial Creditor, the Corporate Debtor failed to honor its obligation and failed to make payment of the outstanding amount due to the Applicant Bank.

- That the Loan Account of the Respondent maintained by the Applicant in respect of the Credit Facilities became highly irregular and even after repeated requests by the Applicant, the Respondent failed to regularize both of its accounts with the Applicant. The repeated defaults in payment of principal amount or the interest component by the Respondent resulted in the classification of both Loan Accounts of the Respondent as Non-Performing Asset (NPA).
- That notice under Section 13(2) of SARFAESI Act dated 24.04.2019 (Term Loan-I) and 23.04.2019 (Term loan- II) was sent to Respondent but the Respondent not only failed to repay the outstanding debt but also abstained from making any effort for the same

2. Consequent to the notice issued by this Tribunal, the Respondent filed its reply in which the following contentions were made:

- That the instant petition has been filed without proper authority. The Application is filed by the Financial Creditor through an officer/employee, namely Mr. Shakti Singh Yadav, Chief Manager of the Applicant. However, Mr. Shakti Singh Yadav is not authorized to file such petition.
- That the Form 1 filed by the Applicant is incomplete and not in accordance with the provisions of the IBC particularly Section 7 and Section 215 of the IBC.
- That as per Article IV, Clause 4.4, sub-clause (g) of the Inter Creditor Agreement, the lenders are restricted to initiate any action for winding up, liquidation, bankruptcy, insolvency or dissolution of borrower before following the procedure as prescribed under Clause 4.3 of the Inter-creditor Agreement. Therefore, the instant Application under Section 7 of the IBC for initiating Corporate Insolvency Resolution Process before following the procedure as prescribed under Clause 4.3 of Inter



Creditor Agreement is premature and is liable to be dismissed on this ground alone.

- That the NPA classification is contrary to guidelines issued by the Reserve Bank of India.
- That the Statement of Account as filed by the Applicant Bank is not in accordance with the mandatory requirement of law. That the Applicant has failed to annex copy of the Certificate required under Section 2(a) of the Bankers Book Evidence Act, 1891 which is a mandatory requirement Under Column 7 of Part V of FORM -1.
- That the Applicant has failed to furnish the calculation chart and thereby the claim of the Applicant is unsubstantiated, exorbitant and thus, the same is liable to be rejected at the outset.

3. Pursuant to the Respondent's reply, the applicant has filed its Rejoinder in which the following contentions were made:

- That Sh. Shakti Yadav has been given general authorisation by the Bank with respect to all the business and affairs of the Bank, including commencement of legal proceedings before any court or tribunal with respect to any demand

and filing of all necessary applications in this regard vide Power of Attorney dated 12.11.2013.

- That Mr. Hitesh Goyal, the proposed Interim Resolution Professional has given the valid and appropriate consent form.
- That under Insolvency and Bankruptcy Code, 2016, the only criteria that is required to be satisfied is "existence of debt and its default in repayment by corporate debtor" and the same has existed since July, 2019 and the same is clearly evident from Statement of Account of the Respondent filed by the Applicant along with Petition under Section 7 of the Code along with Certificate under 2A of the Bankers' Books Evidence Act, 1891.
- That the account was classified as NPA after the completion of 90 days.
- That the Corporate Debtor has not paid its debt since July 2019. The Statement of Account filed by the Applicant is well in accordance with Section 2A of the Bankers' Books Evidence Act, 1891.





- That the Claim Amount of the Applicant/Petitioner is completely substantiated by its Statement of Account and Balance Confirmation filed along with filing of Claim Form
4. We have gone through the documents filed by both the parties and heard the arguments made by the counsels. The applicant has claimed the default on part of the Respondent for the Loan amount of Rs. 431,92,53,302 ( Four Hundred Thirty One Crore Ninety Two Lakhs Fifty Three Thousand Three Hundred and Two Rupees only) as on 31.01.2021.
  5. From the daily order dated 17.03.2022, it is clear that the Counsel for the Corporate Debtor has submitted that the One Time Settlement proposal submitted by the Corporate Debtor has not been accepted by the Financial Creditor. The counsel for the Corporate Debtor has therefore admitted the debt and default.
  6. Mere plain reading of the provision under section 7 of IBC and decision (supra) shows that in order to initiate CIRP under Section 7 the applicant is required to establish that there is a

financial debt and that a default has been committed in respect of that financial debt.

7. In the light of the aforesaid facts, we find that the documents submitted by the Financial Creditor and the Corporate Debtor clearly substantiate the Financial Creditor's claim that the Corporate Debtor has indebted and defaulted the repayment of loan amount.
8. In light of the above discussion, after giving careful consideration to the entire matter, hearing the arguments of the parties and upon appreciation of the documents placed on record to substantiate the claim, this Tribunal **admits** this petition and initiates CIRP on the Corporate Debtor with immediate effect.
9. Sub-section (3) (b) of Section 7 mandates the financial creditor to furnish the name of an Interim Resolution Professional. In compliance thereof the applicant has proposed the name of Mr. Hitesh Goel for appointment as Interim Resolution Professional having registration number IBBI/IPA-001/IP-P-01405/2018-2019/12224. Mr. Hitesh Goel has agreed to accept the appointment as the interim resolution professional and has

signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or elsewhere. Accordingly, it is seen that the requirement of Section 7 (3) (b) of the Code has been satisfied.

10. It is thus seen that the *requirement of sub-section 5 (a) of Section 7 of the code* stands satisfied as default has occurred, the present application filed under Section 7 is complete, and as no disciplinary proceeding against the proposed IRP is pending.
11. It is pertinent to mention here that the Code requires the adjudicating authority to only ascertain and record satisfaction in a summary adjudication as to the occurrence of default before admitting the application. The material on record clearly goes to show that respondent had availed the credit facilities and has committed default in repayment of the outstanding loan amount.



12. We are satisfied that the present application is complete in all respects and the applicant financial creditor is entitled to claim its outstanding financial debt from the corporate debtor and that there has been default in payment of the financial debt.
13. As a sequel to the above discussion and in terms of Section 7 (5) (a) of the Code, the present application is admitted.
14. Mr. Hitesh Goel, having Registration No. IBBI/IPA-001/IP-P-01405/2018-2019/12224 is appointed as an Interim Resolution Professional.
15. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency & Bankruptcy Code, 2016.
16. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:



*“(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

*(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*

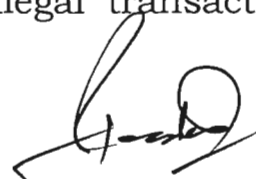
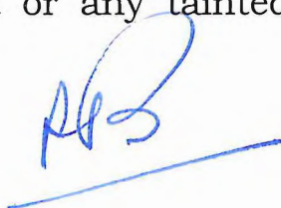
*(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

17. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to




the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.

18. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-




directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

19. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi & Haryana at the earliest possible but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified to the public at large.

  
-sd-

**(SHRI. RAHUL BHATNAGAR)**

**MEMBER (TECHNICAL)**

  
-sd-

**(SHRI. P.S.N. PRASAD)**

**MEMBER (JUDICIAL)**

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 406 of 2022**

**IN THE MATTER OF:**

**Ram Kishor Arora Suspended Director of M/s.  
Supertech Ltd.**

**...Appellant**

**Versus**

**Union Bank of India & Anr.**

**...Respondents**

**Present:**

**For Appellant:** Mr. Arun Kathpalia, Sr. Advocate along with Mr. Siddharth Bhatli, Mr. Abhijeet Sinha, Ms. Lashita Dhingra & Mr. Kshitij Wadhwa, Advocates.

**For Respondent:** Mr. Alok Kumar, Ms. Somya Yadava, Mr. Manan Gambhir, Mr. Nikhil Malhotra, Ms. Garima Soni & Ms. Nandita Jha, for R-1.

Mr. Bishwajity Dubey, Ms. Srideepa Bhattacharyya & Ms. Neha Shivhare, for R-2/RP.

Mr. Arvind Nayar, Sr. Advocate along with Mr. Siddhant Kumar, for Intervenor.

Mr. Ajay Bhargaa, Ms. Wamika Trehan & Ms. Maithli Moondra, Intervenor for L&T Finance.

Mr. P. Nagesh & Mr. K. Datta, Sr. Advocates along with Ms. Kanika Sachdeva, Mr. Piyush Singh, Mr. Aditya Parolia & Ms. Aditi Sinha, for Homebuyers.

Mr. Sidhartha Barua & Mr. Danish Abbasi, Intervenor for IDBI Bank, IA 1509 of 2022

**ORDER**

**Ashok Bhushan, J:**

1. This Appeal has been filed against the Order dated 25<sup>th</sup> March, 2022 passed by the Adjudicating Authority (National Company Law Tribunal, New

Delhi, Court –VI) admitting the Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as ‘The Code’) filed by Union Bank of India praying for initiation of the ‘Corporate Insolvency Resolution Process’ (hereinafter referred to as ‘CIRP’) against M/s. Supertech Limited-Corporate Debtor.

**2.** The Corporate Debtor is a ‘Real Estate Company’ engaged in construction of various projects in the National Capital Region (NCR). Union Bank of India vide its Sanction Letter dated 19.10.2013/16.12.2013 granted credit facilities of Rs. 150 Crores for the development of ‘Eco Village II Project’. The Union Bank of India and Bank of Baroda agreed to extend second credit facilities of Rs. 200 Crores where total exposure of Union Bank of India was Rs. 100 Crores which was sanctioned by Letter dated 21.11.2015. Credit Facilities was secured by execution of mortgage and with corporate guarantees and personal guarantees. There being default on the part of the Corporate Debtor in repaying the loan, the Account was declared as ‘Non-Performing Assets’ (NPA) on 20<sup>th</sup> June, 2018. An application under Section 7 was filed by the Union Bank of India on 20<sup>th</sup> March, 2021 claiming total amount of Rs. 431,92,53,302/- as on 31<sup>st</sup> January, 2021 and interest thereon. The Adjudicating Authority vide the Impugned Order dated 25<sup>th</sup> March, 2022 admitted the Section 7 Application directing for initiation of ‘CIRP’. Mr. Hitesh Goel was appointed as ‘Interim Resolution Professional’ (hereinafter referred to as ‘IRP’). The Appellant, the suspended director of the Corporate Debtor has filed this Appeal challenging the Impugned Order. The Appeal was entertained on 12<sup>th</sup> April, 2022, the



Appellant requested time to enable the Appellant to approach the Bank and the Appeal was adjourned and direction was issued to the IRP not to constitute the 'Committee of Creditors' (CoC in short). The Appeal was taken up thereafter on several dates. On 17<sup>th</sup> May, 2022, it was submitted by Learned Counsel for the Appellant that Appellant has approached the Bank and has offered to make upfront payment of Rs. 10 Crores with 10 Crores on acceptance of OTS and 55 Crores for exclusive security however the Bank has asked to deposit Rs. 75 Crores as upfront to consider the OTS. Additional Affidavit was filed by the Bank as well as Appellant. This Court vide Order dated 25.05.2022 directed the IRP to file Status Report. Status Report has been filed by the IRP.

**3.** Various Intervention Applications have been filed by home buyers, the Association of Home Buyers and IDBI Bank. The Appellant has also filed an I.A. No. 1468 of 2022 by which Resolution cum Settlement Proposal from the management of 'M/s. Supertech Limited' has been submitted.

**4.** We have heard Mr. Arun Kathpalia, Sr. Advocate along with Mr. Abhijeet Sinha, appearing for the Appellant and Mr. Alok Kumar, Learned Counsel appearing for the Union Bank of India. We have also heard Learned Counsel appearing for the Interveners. Submissions have been advanced by Learned Counsel for the Parties only on the prayer for Interim Relief.

**5.** Learned Counsel for the Appellant submits that the Appellant has approached the Respondent and presented their offer for payment of 100% of ledger balance along with 20 Crores upfront payment and rest within 24 months but the Bank has not accepted the offer and Union Bank of India

insisted that upfront payment of Rs. 75 Crores be made. It is submitted that the Appellant-Union Bank of India has extended the credit facilities only for the projects - Eco Village II Phase –I & Phase – II, Eco Village III and Romano Project. The Appellant has already paid an amount of Rs. 149.33 Corers. The Corporate Debtor have been running a large number of projects, substantial number of projects have already been completed, the existing promoters are willing to complete the projects in a time bound manner along with discharging the liabilities of all the Financial Creditors, Home Buyers and even Operational Creditors. Corporate Debtor had sufficient receivables with positive net worth and it requires only last mile funding for completing constructions which will result in generation of adequate cash-flows to meet out all obligations of the Corporate Debtor. The strategic partner 'M/s Star Realcon Pvt. Ltd.' has agreed 'in-principle' to induce 300 Crores to complete the stalled project of the Corporate Debtor. Further 'Varde' Partner a 'Grade A' fund has also shown inclination to infuse substantial fund. The Appellant vide I.A. No. 1468 of 2022 has submitted detailed Settlement cum Resolution Plan to execute the project completion.

**6.** Learned Counsel for the Appellant has also relied on the Judgement of this Tribunal where 'Reverse CIRP' was directed with regard to Real-Estate Projects. Learned Counsel for the Appellant submits that the present case is fit case where this Tribunal may follow the Judgment of this Tribunal in **Company Appeal (AT) Ins. No. 926 of 2019 in the matter of 'Flat Buyers Association Winter Hills-77, Gurgaon Vs. Umang Realtech Pvt. Ltd.**

**through IRP &Ors.'** dated 04.02.2020. It is submitted that the Promoters of the Corporate Debtor are ready to extend full cooperation to the IRP for carrying out the construction of all the projects of the Corporate Debtor and to complete the same. Detailed Settlement-cum-Resolution Plan has been submitted along with I.A. No. 1468 of 2022. In accordance with which the further steps be directed to be taken. It is submitted that corporate debtor has sufficient receiving and ex-management under the supervision of the IRP will undertake construction activities at site on all the projects. All the projects of the Corporate Debtor have their respective RERA Accounts where minimum 70% payment received for construction has to be held and the same shall be used for construction of the respective projects. 30% of the remaining amounts will be deposited in a separate account which will be to discharge all bank liabilities in a phase wise manner. Out of the total 30 projects, 12 are complete/delivered and 18 are under construction which are mostly complete. Home-Buyers will get their homes and 'No dues Certificates'. 90% approximately homebuyers of twin tower have been paid and remaining will also get their refunds as per the proposed settlement plan.

**7.** Mr. Alok Kumar, Learned Counsel appearing for the Union Bank of India refuting the submissions of Learned Counsel for the Appellant submits that 'Status Report' of the IRP dated 31<sup>st</sup> May, 2022 has brought glaring default and non-compliance of the ex-management. It is submitted that their being debt and default, the Application under Section 7 has rightly been admitted and 'CIRP' be allowed to proceed by constitution of 'CoC'. Certain Intervention

Applications filed by Home-Buyers are just a delaying tactics. The proposal submitted by the Appellant in an Affidavit are mis-leading. The Corporate Debtor is in fragile financial condition. The Corporate Debtor does not have enough fund to cater its home-buyers. It is submitted that Hon'ble Supreme Court has time and again emphasized need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. The Concept/Mechanism of 'Reverse Insolvency' as envisaged in the case of 'Flat Buyers Association Vs. Umang Realtech Pvt. Ltd.' (Supra) and other cases is an alien concept outside the scheme and against the provisions/objections of the IBC and the same does not have any legal basis as there is no provision/legislation enacted by the legislature, substantiating the concept. Appellant's argument that the normal mechanism as is followed in a 'CIRP' cannot be followed in cases of real estate infrastructure companies, is an attempt to circumvent the settled principles of law laid down in the Code. The Judgment relied by Learned Counsel for the Appellant on 'Reverse Insolvency' is not attracted in the facts of the present case. Learned Counsel for the Bank submitted that this Court may permit the 'CoC' be constituted and to enable the CIRP process to proceed in accordance with the law.

**8.** We have heard Mr. Bishwajit Dubey appearing for the IRP. He has submitted the 'Status Report' dated 31<sup>st</sup> May, 2022 giving details of various facts regarding the claim management, construction, cash flow and list of key issues, details of finances provided to 'M/s. Supertech Limited' by different Financial Creditors, Financial Creditors Claim as well as the details of various



projects, number of total units, sold units, registered units, near ready units and under construction units and unsold units. The IRP in his Status Report has submitted that IRP after the commencement of the CIRP intimated the Management and informed the Banks and Banks were requested to add the IRP as an authorized signatory in addition to the existing ones in all the bank accounts. IRP has sent communication to the Home Buyers. He has received claims of INR 15,175 Crores from 13,484 creditors of the Corporate Debtor. Learned Counsel for the IRP submits that he is prepared to undertake construction work. IRP has already managed to visit select project sites with the Project Director and others to understand the current stage of operation, scale of construction activities, site development plans, challenges and intricacies of each site etc. IRP has expressed requirement of third party needs to be appointed to estimate the balance cost to complete each project. In Report, IRP has also referred to litigation and investigation and other facts.

**9.** There are number of Intervention Applications which have been filed by the respective applicants. The Intervention Applications can be divided in two groups. Group one consists of I.As filed by the Home-Buyers with a prayer that 'CIRP' should not continue. In this group, there are several I.As where prayers have been made that 'CIRP' should be restricted to Eco Village II Project only. In I.A. No. 1731 of 2022, the prayer is that 'CIRP' should not continue. In I.A. No. 1730/2022, I.A. No. 1668 of 2022, I.A. No. 1617 of 2022, I.A. No. 1616 of 2022, I.A. No. 1615 of 2022, I.A. No. 1614 of 2022, I.A. No. 1116 of 2022, I.A. No. 1117 of 2022, prayers are made by the Home Buyers is that CIRP should

be restricted to Eco Village II Project only. In I.A. No. 1115 of 2022, the Applicant prays to keep the project out of 'CIRP'. In I.A. No. 1731 of 2022, the Intervener Home Buyer prays that CIRP should not be continued and the projects of the Corporate Debtor shall be kept out from the ambit of the CIRP of the Corporate Debtor so as to allottees may get their possession of their dwelling units. Banks should not come in the way of completion of projects. Group two consists of Intervention Applications where Home Buyers prays that 'CIRP' should continue in this Group I.A. Nos. 1612 of 2022, 1609 of 2022, 1610 of 2022, 1605 of 2022, 1604 of 2022, 1582 of 2022, the Interveners pray that CIRP should continue. An Application being I.A. No. 1509 of 2022 has been filed by IDBI Bank Limited which prays that IDBI who is Financial Creditor and member of consortium banking arrangement where Union Bank of India was the Lead Bank, has disbursed the loan for the development of Eco Village II Project and prays that it may be permitted to intervene in the proceeding, it being a Financial Creditor.

**10.** We have heard Learned Counsel for the parties as well as the Interveners and perused the record.

**11.** We have carefully gone into the status report submitted by the IRP dated 31<sup>st</sup> May, 2022. From the status report submitted by the IRP, it is clear that IRP in his Report has listed 20 projects of the Corporate Debtor which also included Eco Village II Project for which the finance was given by the Union Bank of India who has filed the Application under Section 7 of the Code for initiation of the CIRP. By the admission of the Application under Section 7 of

the Code by the Adjudicating Authority, CIRP has commenced against the Corporate Debtor and when CIRP has commenced against the Corporate Debtor, all projects which had been undertaken and under construction comes under CIRP. As per the IRP Status Report, IRP has taken a stock of situation by visiting the sites which are under construction. The IRP has held several meetings with the Project Director. Paragraph 1.7 of the Report details with the construction which is to the following effect:

*“As apprised by the erstwhile promoters, the Corporate Debtor has ~20-25 active projects at various locations across country but mainly in Delhi-NCR. All the projects have a respective Project Director who is entrusted with the overall development of the project including but not limited to construction activities, vendor management, site management, etc, IRP had numerous meeting meetings, discussions, conferences with all the project directors to understand the current stage of operations, scale of construction activities, site development plans, challenges, and intricacies of each site. Though basic understanding of each project was provided but the consolidated view on overall constructions status, percentage completion of projects along with balance cost to complete has not been made available to the IRP. In the context, an independent third party needs to be appointed to estimate the balance cost to complete each project.”*

**12.** At page 14 of the Report, the IRP has given the details of 20 projects of the Corporate Debtor which also included Eco Village II Project, Eco Village I project and III. The IRP has also given the details of Banks/Financial

Institutions who has provided loan to M/s. Supertech Limited as Annexure C which is to the following effect:

“

Name of Bank/FIs	Doon Square	Eco City	EV- II	EV- III	EV- IV	Hues	Romano	Shopprix Mall Meerut	Multiple Projects	Amount Claimed
Union Bank of India	-	-	135	61	59	-	192	-	1	448
IFCI Limited	-	-	-	-	-	253	-	168	-	422
PNB Housing Finance	-	-	-	-	-	415	-	-	-	415
L & T Finance	-	-	-	-	-	-	-	-	411	411
Bank of Baroda	71	-	-	82	70	-	-	-	-	223
IDBI Bank	-	-	222	-	-	-	-	-	-	222
Punjab & Sind Bank	-	23	-	-	-	-	163	-	-	186
Bank of Maharashtra	-	-	-	128	-	-	-	-	-	128
Indiabulls Commercial Credit	-	-	-	-	-	-	-	-	29	29
Indiabulls ARC	-	-	-	-	-	-	-	-	-	0
Grand Total	71	23	356	271	129	668	354	168	441	2,483

**13.** Annexure E detailing the Operational Creditor Claim.

**14.** First we need to consider the submissions of Learned Counsel for the Appellant that in view of the fact that large number of projects of the Corporate Debtor are ongoing projects where substantial completion has been made and large number of units have also been handed over to the home buyers and rest units shall also be handed over, in event the construction of the projects are allowed to proceed as ongoing project, the promoters of the Corporate Debtor are willing to extend all cooperation to the IRP for carrying out the ongoing

projects. It is submitted that CIRP need not to be allowed to continue for all the 20 projects rather it may be undertaken on projects basis as has been held by this Tribunal in its Judgment of 'Flat Buyers Association Winter Hills' (supra). The Hon'ble Supreme Court in '**Swiss Ribbon Pvt. Ltd. Vs. Union of India**' [(2019) 4 SCC 17] has made weighty observations with regard to the Insolvency Code which deals with economic matter. In paragraph 120 of the Judgment, following has been observed:

*“120. The Insolvency Code is a legislation which deals with economic matters and, in the larger sense, deals with the economy of the country as a whole. Earlier experiments, as we have seen, in terms of legislations having failed, trial having led to repeated errors, ultimately led to the enactment of the Code. The experiment contained in the Code, judged by the generality of its provisions and not by so-called crudities and inequities that have been pointed out by the petitioners, passes constitutional muster. To stay experimentation in things economic is a grave responsibility, and denial of the right to experiment is fraught with serious consequences to the nation. We have also seen that the working of the Code is being monitored by the Central Government by Expert Committees that have been set up in this behalf. Amendments have been made in the short period in which the Code has operated, both to the Code itself as well as to subordinate legislation made under it. This process is an ongoing process which involves all stakeholders, including the petitioners.”*



15. The thought which was echoed by Hon'ble Supreme Court in 'Swiss Ribbons Pvt. Ltd.' (supra) has been reiterated in the Judgment of Hon'ble Supreme Court in '**Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta and Ors.**' [(2018) 8 SCC 531]. This Tribunal in the case of 'Flat Buyers Association Winter Hills' (supra) was faced with a case regarding Insolvency of a Real Estate Company. In the above Judgment, this Tribunal dealt with 'Reverse Corporate Insolvency Resolution Process' and in paragraph 21 made following observations:

*"21. In Corporate Insolvency Resolution Process against a real estate, if allottees (Financial Creditors) or Financial Institutions/Banks (Other Financial Creditors) or Operational Creditors of one project initiated Corporate Insolvency Resolution Process against the Corporate Debtor (real estate company), it is confined to the particular project, it cannot affect any other project(s) of the same real estate company (Corporate Debtor) in other places where separate plan(s) are approved by different authorities, land and its owner may be different and mainly the allottees (financial creditors), financial institutions (financial creditors, operational creditors are different for such separate project. Therefore, all the asset of the company (Corporate Debtor) are not to be maximized. The asset of the company (Corporate Debtor – real estate) of that particular project is to be maximized for balancing the creditors such as allottees, financial institutions and operational creditors of that particular project. Corporate Insolvency Resolution Process should be*

*project basis, as per approved plan by the Competent Authority. Any other allottees (financial creditors) or financial institutions/ banks (other financial creditors) or operational creditors of other project cannot file a claim before the Interim Resolution Professional of other project and such claim cannot be entertained.*

*So, we hold that Corporate Insolvency Resolution Process against a real estate company (Corporate Debtor) is limited to a project as per approved plan by the Competent Authority and not other projects which are separate at other places for which separate plans approved. For example – in this case the Winter Hill – 77 Gurgaon Project of the ‘Corporate Debtor’ has been place of Corporate Insolvency Resolution Process. If the same real estate company (Corporate Debtor herein) has any other project in another town such as Delhi or Kerala or Mumbai, they cannot be clubbed together nor the asset of the Corporate Debtor (Company) for such other projects can be maximised.”*

**16.** This Tribunal also made observations that ‘Secured Creditor’ such as ‘financial institutions/ banks’, cannot be provided with the asset (flat/apartment) by preference over the allottees (Unsecured Financial Creditors) for whom the project has been approved. This Tribunal directed for following ‘Reverse Corporate Insolvency Resolution Process in case of Real Estate Infrastructure Companies in the interest of allottees and survival of the Real Estate Infrastructure Companies and to ensure completion of projects. In paragraph 25, following observations have been made:

*“25. In the light of aforesaid discussion, as we find it is very difficult to follow the process as in normal course is followed in a Corporate Insolvency Resolution Process, we are of the view, that a ‘Reverse Corporate Insolvency Resolution Process’ can be followed in the cases of real estate infrastructure companies in the interest of the allottees and survival of the real estate companies and to ensure completion of projects which provides employment to large number of unorganized workmen.”*

**17.** In the above case, one of the promoters were directed to cooperate with the Interim Resolution Professional and to disburse the amount not as a promoter but as the outside Lender and direction for phase-wise completion of the project as well as direction for payment of financial institutions/banks simultaneously. In paragraph 26-27, following observations have been issued:

*“26. The ‘Uppal Housing Pvt. Ltd.’ – Intervenor (One of the Promoter) is directed to cooperate with the Interim Resolution Professional and disburse amount (apart from the amount already disbursed) from outside as Lender (financial creditor) not as Promoter to ensure that the project is completed with the time frame given by it. The disbursement of amount which has been made by ‘Uppal Housing Pvt. Ltd.’ and the amount as will be generated from dues of the Allottees (Financial Creditors) during the Corporate Insolvency Resolution should be deposited in the account of the Company (Corporate Debtor) to keep the Company a going concern. The amount can be utilized only by issuance of cheque signed by the authorised person of the Company (Corporate Debtor) with counter signature by*

*the Interim Resolution Professional. The Bank in which the Corporate Debtor (Company) has account the amount should be deposited only for the purpose of completion of the Winter Hill – 77 Gurgaon Project. Banks will allow the cheques for encashment only with the counter signature of the Interim Resolution Professional.*

*27. The flats/apartments should be completed in all aspect by 30th June, 2020. All internal fit outs for electricity, water connection should be completed by 30th July, 2020. The Financial Institutions/ Banks should be paid simultaneously. The allottees are directed to deposit their balance amount and pay 90% without penal interest, if not deposited, by 15th March, 2020. The Allottees in whose favour possession has been offered and clearance has been given by the competent authority are bound to pay the cost for registration and directed to deposit registration cost to get the flats/apartments registered after paying all the balance amount in terms of the agreement.”*

**18.** An appeal was also filed before the Hon’ble Supreme Court of India vide Diary No. 13889-2020 in the matter of Narendra Singh Vs. M/s. Umang Realtech Pvt. Ltd. against the Order dated 04.02.2020 of this Tribunal in Company Appeal (AT) Ins. No. 926 of 2019 which was dismissed by an Order dated 11<sup>th</sup> August, 2020

**19.** From the facts, which has been brought on record especially the Status Report by the IRP it is clear that all 20 Projects which are of the Corporate Debtor are ongoing projects where substantial units of the total units have

been sold. Project-wise detail has been given in Page 14 of the Report which is to the following effect:

S.no	Project name	Total Units	Sold Units	Registry Units	NDC Issued Units	Possession Without OC Units	Near Ready Units (NDC Issued)	Under construction Units	Unsold Units
1	Eco Village - 1	8,012	7,685	1,473	6,657	3,171	2,013	1,355	327
2	Upcountry	5,876	3,248	19	744	469	256	5,132	2,628
3	Eco Village - 2	5,696	5,189	1,079	4,287	2,054	1,154	1,409	507
4	Capetown	5,054	4,983	3,321	4,644	1,010	313	410	71
5	Eco Village - 3	3,909	2,892	593	1,718	667	458	2,191	1,017
6	Hill Town	2,561	1,208	72	75	-61	64	2,486	1,353
7	Cape Town North Eyes	2,449	1,561	23	340	39	278	2,109	888
8	Green Village	2,204	1,400	891	1,047	29	127	1,157	804
9	Eco City	2,145	2,141	1,333	2,130	720	77	15	4
10	Meerut Sport City	2,124	1,103	385	477	17	75	1,647	1,021
11	Romano	2,105	1,491	-	514	172	342	1,591	614
12	Czar Suites	2,083	1,862	265	1,678	976	437	405	221
13	Crossing Livingston	1,318	1,318	1,255	1,309	31	23	9	-
14	River Crest	1,301	265	-	199	55	144	1,102	1,036
15	Araville	618	493	82	336	88	166	282	125
16	Doon Square	606	326	60	149	19	70	457	280
17	Palm Green Residence Meerut	562	562	562	562	-	-	-	-
18	Palm Green Moradabad	434	434	401	429	28	-	5	-
19	34 Pavilion	367	367	138	361	221	2	6	-
20	Micasa - Bangalore	130	75	1	17	-	16	113	55
<b>Total</b>		<b>49,554</b>	<b>38,603</b>	<b>11,953</b>	<b>27,673</b>	<b>9,705</b>	<b>6,015</b>	<b>21,881</b>	<b>10,951</b>

**20.** We further notice that the Union Bank of India who has initiated CIRP by filing Section 7 Application has stated in Section 7 Application that it had given finance for Eco Village II Project. In annexure C of the Status Report of the IRP, Union Bank of India has shown to have given finance for Eco Village II Project, Eco Village III Project, Eco Village IV and One Romano Project. With regard to the Eco Village II Project, there is another Financial Creditor i.e. IDBI Bank



who has filed Intervention Application as noted above. Large number of home buyers who has filed Intervention Application has prayed that CIRP be confined to Eco Village II Only. With regard to the other projects, the construction may be allowed to be completed so that home buyers may get their flats.

**21.** We are conscious of the fact that 'CIRP' has been initiated against the Corporate Debtor. 'CIRP' has commenced against all the projects of the Corporate Debtor. 'CIRP' encompasses all the assets of the Corporate Debtor including all Bank Accounts. The IRP has already been appointed and has taken steps by informing all concerned including Banks to add the name of IRP for operation of the Account. The Learned Counsel for the Appellant made submissions and also filed an I.A. No. 1468 of 2022 by which Resolution cum Settlement Proposal has been submitted by the Management with an object to carry out the construction of all the projects.

**22.** As noted above, the consequence of 'CIRP' is that all assets of the Corporate Debtor come in the control and management of the IRP. All bank accounts are to be operated with the counter signature of the IRP. No amount from any account can be withdrawn without the counter signature and permission of the IRP. IRP under the IBC has responsibility to run the Corporate Debtor as a going concern. Further when Promoters are ready to extend all cooperation with all its staffs and employees to the IRP, we see no reason for not to direct the IRP to proceed with construction of all the projects under the overall supervision and control of the IRP. We by an Interim Order

dated 12<sup>th</sup> April, 2022 directed not to constitute the 'CoC' which Interim Order is continuing as on date.

**23.** In the facts of the present case and keeping in view the submissions raised by the Learned Counsel for the parties, we are of the view that in 'CIRP' Process, Project-Wise Resolution to be started as a test to find out the success of such Resolution. Keeping an eye regarding construction and completion of the projects, we at present, are of the view that Interim Order dated 12<sup>th</sup> April, 2022 staying the constitution of CoC be modified to the extent that CoC be constituted for the Eco Village II Project only with all Financial Creditors including Financial Creditors/Banks/Home Buyers. The Committee of Creditors of Eco Village II Project shall start process for Resolution of Eco Village II Project. The IRP shall separate the claims received with regard to the Eco Village II Project and prepare an 'Information Memorandum' accordingly and proceed for meeting of the CoC as per the Code. It is further directed that even for Eco Village II Project, the IRP shall carry the Project and continue the project as ongoing project by taking all assistance from the ex-management, employees, workmen etc. We however make it clear that other projects apart from the Eco Village II Project shall proceed as ongoing project basis under the overall supervision of the IRP. IRP in his report stated that with regard to the projects, there are separate accounts as per 'RERA' Guidelines. Detail account of all the inflow and outflow with regard to each project shall be separately maintained as per the 'RERA' Guidelines. 70% of the amount received with regard to the project shall be utilized for construction purpose only with regard

to the disbursement of rest 30 % amount, we shall issue appropriate direction after receiving further Status Report and after hearing all concern subsequently.

**24.** The Promoters of the Corporate Debtor has submitted that they shall arrange for Interim Finance to support the ongoing construction of the different projects by arranging finances as submitted in their Settlement cum Resolution Plan. Annexure 3 to the I.A. No. 1468 of 2022, with an object to complete the projects and clear the outstanding of all Financial Institutions including the Financial Creditors on the basis of 100% ledger balance and also payment to the Operational Creditor. The pendency of this proceeding shall in no manner hinder the Appellant to approach the Financial Creditors for entering into Settlement with the Financial Creditors. With regard to the disbursement to the Financial Creditors, out of 30% of the amount, we shall issue necessary direction after receiving the status report and receiving the progress of the projects.

**25.** In view of the foregoing discussions, we issue following Interim Directions:

- i. The Interim Order dated 12<sup>th</sup> April, 2022 continuing as on date is modified to the extent that IRP may constitute the CoC with regard to the Project Eco Village II only.
- ii. After constitution of CoC of Eco Village II Project, the IRP shall proceed to complete the construction of the project with the assistance of the ex-management, its employees and workmen.

- iii. With regard to the Eco Village II Project, the IRP shall proceed with the completion of the project, Resolution and shall be free to prepare Information Memorandum, issue Form -G, invite Resolution Plan however no Resolution Plan be put for voting without the leave of the Court.
- iv. All receivables with regard to the Eco Village II Project, shall be kept in the separate account, earmarked account and detail accounts of inflow and outflow shall be maintained by the IRP.
- v. That all other projects of the Corporate Debtor apart from Eco Village II Project shall be kept as ongoing project. The Construction of all other projects shall continue with overall supervision of the IRP with the assistance of the ex-management and its employees and workmen.
- vi. The promoter shall infuse the funds as arranged by it in different projects which shall be treated as Interim Finance regarding which detail account shall be maintained by the IRP.
- vii. No account of Corporate Debtor shall be operated without the counter signature of the IRP. All expenses and payments in different projects, shall be only with the approval of the IRP. All receivables in different projects shall be deposited in the account as per 'RERA' Guidelines and 70% of the amount shall be utilized for the construction purpose only. With regard to the disbursement of rest of the 30 %, appropriate direction shall be issued subsequently after receiving the status report and after hearing all concerns.

- viii. The IRP shall obtain approval of the CoC which is directed to be constituted for Eco Village II Project and incur all the expenses regarding the said projects and further incur the expenses accordingly.
- ix. With regard to the expenses to other projects for which no CoC has been constituted, IRP is at liberty to submit a proposal for payment of various expenses including 'CIRP' expenses to this Tribunal.
- x. The Promoters of the Corporate Debtor shall be at liberty to bear any expenses as requested by the IRP without in any manner utilizing any of the funds of the Corporate Debtor.
- xi. Let the IRP submit a further Status Report within six weeks from today regarding Eco Village II Project and all other projects.
- xii. The Parties are at liberty to file an I.A. for any direction/clarification in the above regard.
- xiii. List this Appeal on **27<sup>th</sup> July, 2022.**

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Naresh Salecha]**  
**Member (Technical)**

**New Delhi**  
**10.06.2022**  
Basant



ITEM NO.55

COURT NO.6

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

CIVIL APPEAL..... Diary No(s).33603/2022

(Arising out of impugned final judgment and order dated 10-06-2022 in CAAT(I) No. 406/2022 passed by the National Company Law Appellate Tribunal)

**INDIABULLS ASSET RECONSTRUCTION COMPANY LIMITED**      **Petitioner(s)**

**VERSUS**

**RAM KISHOR ARORA & ORS.**      **Respondent(s)**

(IA No.168070/2022-CONDONATION OF DELAY IN FILING and IA No.168071/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.168069/2022-EX-PARTE STAY and IA No.168068/2022-PERMISSION TO FILE APPEAL )

**WITH**

**C.A. No. 5941/2022 (XVII)**

**(FOR ADMISSION and I.R. and IA No.127725/2022-EX-PARTE STAY and IA No.127724/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)**

**Date : 27-01-2023 These petitions were called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE DINESH MAHESHWARI**  
**HON'BLE MR. JUSTICE HRISHIKESH ROY**

**For Petitioner(s)**

**Mr. Gopal Jain, Sr. Adv.**  
**Mr. Somesh Dhawan, Sr. Adv.**  
**Mr. Mahesh Agarwal, Adv.**  
**Mr. Ankur Saigal, Adv.**  
**Mr. Anshuman Srivastava, Adv.**  
**Mr. Shashwat Singh, Adv.**  
**Ms. Geetika Sharma, Adv.**  
**Mr. E. C. Agrawala, AOR**

**Mr. R. Venkataramani, AG**  
**Mr. Balaji Srinivasan, AOR**  
**Mr. Alok Kumar, Adv.**  
**Ms. Garima Soni, Adv.**  
**Mr. Rohil Pandit, Adv.**  
**Mr. Abhinav Shukla, Adv.**  
**Mr. Chitvan Singhal, Adv.**  
**Mr. Anandh Venkataramani, Adv.**  
**Ms. Sonali Jain, Adv.**  
**Mr. Raman Yadav, Adv.**

Mr. Abhishek Pandey, Adv.

For Respondent(s) Dr. Abhishek Manu Singhvi, Adv.  
 Mr. Abhijeet Sinha, Adv.  
 Mr. Siddharth Bhatti, Adv.  
 Ms. Lashita Dhingra, Adv.  
 Mr. Dinesh Kumar Garg, AOR  
 Mr. Abhishek Garg, Adv.  
 Mr. Dhananjay Garg, AOR  
 Mr. Ishaan Tiwari, Adv.  
 Ms. Khyati Jain, Adv.  
 L. Nidhiram Sharma, Adv.  
 Mr. Saikat Sarkar, Adv.

Mr. R. Sudhinder, Adv.  
 Ms. Niharika Sharma, Adv.  
 Mr. R. Gopalakrishnan, AOR

Mr. Nishant Verma, AOR

Mr. Ravi Prakash Mehrotra, Sr. Adv.  
 Mr. Apoorv Srivastava, Adv.  
 Mr. Jogy Scaria, AOR

Mr. Gopal Jain, Sr. Adv.  
 Mr. Somesh Dhawan, Sr. Adv.  
 Mr. Mahesh Agarwal, Adv.  
 Mr. Rishi Agrawala, Adv.  
 Mr. Ankur Saigal, Adv.  
 Ms. Geetika Sharma, Adv.  
 Mr. Shivam Shukla, Adv.  
 Mr. E. C. Agrawala, AOR

Mr. Jayant Mehta, Sr. Adv.  
 Mr. Viplav Acharya, Adv.  
 Mr. Raghav Bhatia, Adv.  
 Mr. Akshat Srivastava, AOR

UPON hearing the counsel the Court made the following  
 O R D E R

Taking note of the submissions sought to be made in these matters, we are clearly of the view that as at present, the offers said to have been made by the prospective resolution applicants may be evaluated and may be placed for consideration before the NCLAT but beyond that process, we would request the NCLAT to keep the

proceedings in abeyance and await further orders of this Court.

List these matters on 16.02.2023.

(GAGANDEEP SINGH CHADHA)  
(SENIOR PERSONAL ASSISTANT)

(RANJANA SHAILEY)  
COURT MASTER (NSH)

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2246, 2646 & 2663 of 2022**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Siddharth Bhatli, Ms. Lashita Dhingra, Advocates for Appellant.

Mr. M.P Sahay, Ms. Awanitika, Advocates for Homebuyers.

Mr. R. Sudhinder, Mr. Udit Mendiratta, Ms. Kiran Sharma, Ms. Niharika Sharma, Advocates for IRP.

Mr. Alok Kumar, Ms. Garima Soni, Mr. Rohil Pandit, Advocates for R-1/UBI.

Ms. Anwesha Dasgupta, Mr. Saurav Agarwal, Mr. Mohit Kishore, Mr. Siddharth Srivastava, Advocates for Applicant in I.A. No. 4966 of 2022.

Mr. Shaurya Krishna and Mr. Amit Garg, Advocates for Impleador in I.A. No. 4713/2022.

Mr. Sumesh Dhawan, Mr. Nikhil Mehndiratta, Mr. Shaurya Shyam, Advocates for Applicant/Intervenor in I.A. No. 3776 of 2022.

Ms. Vatsala Kak, Mr. Raghav Dembla, Advocates for Indiabulls.

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Ms. Maithili Moondra, Advocates for L&T finance in I.A. No. 3034 of 2022.

Mr. Rohit Oberoi and Mr. Raghav Sethi, Advocates for Applicant in I.A. No. 4574/2022 & 4575/2022.

Mr. Rupesh Gupta, Ms. Eesha Sharma, Advocates for Homebuyers (Intervenor).

Mr. Sourav Roy, Mr. Prabudh Singh, Advocates in I.A. No. 3206/2021.

Ms. Adya Jha, Advocate for Applicant in I.A. Nos. 2717/2022 & 4213/2022.

**ORDER**

**31.01.2023:** Learned Counsel for the parties have placed before us the order passed by Hon'ble Supreme Court dated 27.01.2023 which is to the following effect:

*“Taking note of the submissions sought to be made in these matters, we are clearly of the view that as at present, the offers said to have been made by the prospective resolution applicants may be evaluated and may be placed for consideration before the NCLAT but beyond that process, we would request the NCLAT to keep the proceedings in abeyance and await further order of this Court.*

*List these matters on 16.02.2023.”*

In view of the aforesaid order of the Hon'ble Supreme Court the appeal is adjourned to await further orders of Hon'ble Supreme Court.

Parties are at liberty to file an application for fixing a date after an order is received from the Hon'ble Supreme Court.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

sa/nn



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 1925 OF 2023**

**INDIABULLS ASSET RECONSTRUCTION  
COMPANY LIMITED**

**....APPELLANT(S)**

**VERSUS**

**RAM KISHORE ARORA & ORS.**

**....RESPONDENT(S)**

**WITH**

**CIVIL APPEAL NO. 5941 OF 2022**

**CIVIL APPEAL NO. 1975 OF 2023**

**ORDER**

**Civil Appeal No. 5941 of 2022 and Civil Appeal No. 1925 of 2023**

1. These two appeals (Civil Appeal Nos. 5941 of 2022 and 1925 of 2023) filed by the Union Bank of India and Indiabulls Asset Reconstruction Company Ltd. respectively, being the financial creditors of the corporate debtor – Supertech Ltd., are directed against the order dated 10.06.2022 passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi<sup>1</sup>, in Company Appeal (AT) (Ins.) No. 406 of 2022. By the order impugned, the Appellate Tribunal, while dealing with an appeal against the order dated 25.03.2022 passed by the

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<sup>1</sup> Hereinafter referred to as 'the Appellate Tribunal' or 'NCLAT.'

National Company Law Tribunal, New Delhi – Court VI<sup>2</sup>, in admitting an application under Section 7 of the Insolvency and Bankruptcy Code, 2016<sup>3</sup>, has issued a slew of directions which practically have the effect of converting the corporate insolvency resolution process<sup>4</sup> in question into a “project-wise insolvency resolution process” inasmuch as the constitution of committee of creditors<sup>5</sup> has been restricted only to one project named “Eco Village-II” of the corporate debtor, who is dealing in real estate and has several ongoing projects.

2. The other appeal, being Civil Appeal No. 1975 of 2023, is preferred by Assets and Care Reconstruction Ltd., a beneficiary of corporate guarantee, challenging the order dated 10.01.2023 whereby, the Appellate Tribunal directed the interim resolution professional<sup>6</sup> to call a meeting of only those financial institutions who have lent money to the corporate debtor before finalisation of the term sheet.

3. Having regard to myriad issues involved and the fact that final disposal of the appeals is likely to take time, we have heard the learned counsel for the parties as regards interim relief and/or interim arrangement, particularly after taking note of the fact that in terms of the direction of NCLAT, certain offers were received from the prospective resolution applicants. Those offers were directed to be placed before NCLAT and we requested the NCLAT to keep further proceedings in

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2 Hereinafter referred to as ‘the Tribunal’ or ‘NCLT’.

3 Hereinafter referred to as ‘IBC’ or ‘the Code’.

4 For short, ‘CIRP’.

5 For short, ‘CoC’.

6 For short, ‘IRP’.

abeyance and await further orders of this Court. Thereafter, we heard the learned counsel for the parties at substantial length as regards the propositions towards interim relief/interim arrangement in view of the typical issues involved in these matters.

4. A brief reference to the relevant background aspects shall be apposite.

4.1. The corporate debtor is a real estate company engaged in construction of various projects, mostly in the National Capital Region, which received credit facilities from Union Bank of India by way of sanction letter dated 19.10.2013/16.12.2013, in the sum of Rs. 150 crore, for the development of the “Eco Village-II Project.” Subsequently, Union Bank of India and Bank of Baroda entered into an agreement, extending second credit facilities in the sum of Rs. 200 crore, with Union Bank of India’s total exposure being Rs. 100 crore, as sanctioned by letter dated 21.11.2015.

4.2. The credit facilities provided by Union Bank of India to the corporate debtor were secured through a mortgage, corporate guarantees, and personal guarantees. As a result of the corporate debtor’s default on the loan repayment, the account was declared as a ‘Non-Performing Asset’ on 20.06.2018.

4.3. Union Bank of India filed an application under Section 7 of the Code on 20.03.2021, claiming a total amount of Rs. 431,92,53,302 as on 31.01.2021, along with accrued interest. The NCLT, by its order dated 25.03.2022, admitted the Section 7 application and directed for initiation

of CIRP for the corporate debtor. Following this, Mr. Hitesh Goel – respondent No. 3 was appointed as the IRP.

4.4. Aggrieved by this order so passed by NCLT, respondent No. 1 – promoter/suspended director of corporate debtor filed an appeal before NCLAT. On 12.04.2022, an interim order was passed by NCLAT, directing that CoC shall not be constituted until the next date. The said order continued until passing of the impugned order dated 10.06.2022.

4.5. In the impugned order dated 10.06.2022, the Appellate Tribunal partly modified its order dated 12.04.2022 and issued interim directions, including constitution of CoC for Eco Village Project-II only; the said project to be completed with assistance of ex-management whereas other projects, apart from Eco Village-II, were ordered to be continued as ongoing projects. The interim directions in the impugned order dated 10.06.2022 read as follows: -

“i. The Interim Order dated 12<sup>th</sup> April, 2022 continuing as on date is modified to the extent that IRP may constitute the CoC with regard to the Project Eco Village II only.

ii. After constitution of CoC of Eco Village II Project, the IRP shall proceed to complete the construction of the project with the assistance of the ex management, its employees and workmen.

iii. With regard to the Eco Village II Project, the IRP shall proceed with the completion of the project, Resolution and shall be free to prepare Information Memorandum, issue Form –G, invite Resolution Plan however no Resolution Plan be put for voting without the leave of the Court.

iv. All receivables with regard to the Eco Village II Project, shall be kept in the separate account, earmarked account and detail accounts of inflow and outflow shall be maintained by the IRP.

v. That all other projects of the Corporate Debtor apart from Eco Village II Project shall be kept as ongoing project. The Construction of all other projects shall continue with overall supervision of the IRP with the assistance of the ex-management and its employees and workmen.

vi. The promoter shall infuse the funds as arranged by it in different projects which shall be treated as Interim Finance regarding which detail account shall be maintained by the IRP.

vii. No account of Corporate Debtor shall be operated without the counte signature of the IRP. All expenses and payments in different projects, shall be only with the approval of the IRP. All receivables in different projects shall be deposited in the account as per 'RERA' Guidelines and 70% of the amount shall be utilized for the construction purpose only. With regard to the disbursement of rest of the 30 %, appropriate direction shall be issued subsequently after receiving the status report and after hearing all concerns.

viii. The IRP shall obtain approval of the CoC which is directed to be constituted for Eco Village II Project and incur all the expenses regarding the said projects and further incur the expenses accordingly.

ix. With regard to the expenses to other projects for which no CoC has been constituted, IRP is at liberty to submit a proposal for payment of various expenses including 'CIRP' expenses to this Tribunal.

x. The Promoters of the Corporate Debtor shall be at liberty to bear any expenses as requested by the IRP without in any manner utilizing any of the funds of the Corporate Debtor.

xi. Let the IRP submit a further Status Report within six weeks from today regarding Eco Village II Project and all other projects.

xii. The Parties are at liberty to file an I.A. for any direction/clarification in the above regard.

xiii. List this Appeal on **27<sup>th</sup> July, 2022.**"

5. Dissatisfied with the interim directions so issued by the Appellate Tribunal, the appellants, financial creditors of corporate debtor, have filed appeals before this Court, essentially challenging the adoption of reverse CIRP by the Appellate Tribunal and limiting the CIRP and constitution of CoC to only one project of corporate debtor, i.e., Eco Village-II.

6. It has been contended on behalf of the appellants that the Appellate Tribunal does not have power under IBC to allow project-wise CIRP and does not have power to accept a resolution plan presented by the promoter without giving opportunity to the CoC to study the commercial viability of the plan. It has also been contended that there is

no concept of project-wise resolution under IBC and the order impugned was passed by the Appellate Tribunal without notice to the appellants, who are the financial creditors having substantial stakes in the matter.

7. As regards interim relief/interim arrangement, the contesting parties have put forward different propositions which could be summarised as *infra*.

7.1. It has been submitted on behalf of the appellant - Union Bank of India that the financial institutions, including appellant, have funded the corporate debtor as a single corporate entity irrespective of the fact that the funds are being utilised for a single project or multiple projects. Therefore, the credit facility extended by the appellant does not get converted to 'project finance' allowing resolution through 'project based insolvency' mechanism; and the scheme of IBC envisages CIRP of whole corporate entity that is to be carried out only through CoC mandated to be constituted for the corporate debtor as a whole instead of only one of its projects. Moreover, any procedure that allows the erstwhile management, the cause of suspension of the projects, to participate as a resolution applicant or in any other form or to receive funds from a third party for the corporate debtor will defeat the purpose of the Code, as it is in violation of Section 29-A of the Code as well as various judgments of this Court; and there are serious delinquencies dimension against the ex-management. It is submitted that the appellant is in favour of the investment being made by any third party on the primary condition that the ex-management is not included for resolution of the corporate debtor.



7.2. It has been submitted on behalf of the appellant – Indiabulls Asset and Reconstruction Company Ltd. that the impugned order restricting constitution of CoC only to Eco Village-II is required to be modified to constitute CoC for entire company; promoter/erstwhile management of the corporate debtor should have no involvement in CIRP and must maintain the *status quo* concerning the assets of the corporate debtor.

7.3. It has been submitted on behalf of promotor-respondent No.1 that interim direction No. (i) and (ii) issued by the Appellate Tribunal be modified to include Eco Village-II project also within the interim arrangement. Additionally, the ex-management of the corporate debtor may be allowed to carry out the execution of the interim funding and settlement plan under the supervision of IRP, which could be monitored by a Monitoring Committee designated by this Court. Further, the IRP, ex-management, and the Monitoring Committee be required to submit quarterly progress reports to NCLAT, or alternatively, to this Court. It has also been submitted that no coercive action be taken against assets of corporate debtor, its promoters, directors and management which otherwise would delay completion of projects.

7.4. It has been submitted on behalf of IRP that interim directions issued by the Appellate Tribunal, by way of the impugned order, deserve not to be interfered with; the construction can be monitored by a steering committee which can file reports every quarter; and directions may be issued to initiate efforts to procure interim financing for all of the corporate

debtor's projects, which would include both Eco Village-II and Non-Eco Village II projects.

7.5. It has been submitted on behalf of home buyers of Eco Village-II that the direction be issued to complete the construction of the said project in a similar manner as envisaged for other home buyers for whom no CoC has been constituted and construction deserves to be completed under supervision of IRP with assistance of ex-management.

7.6. It has been submitted on behalf of other home buyers that the impugned order deserves not to be interfered with and direction may be issued to NCLAT to complete the process of approval and infusion of funds from proposed investor; a Monitoring Committee may be formed in regard to interim arrangement and settlement plan and due diligence report may be circulated for their opinion; and no coercive action to be taken against assets of the corporate debtor.

8. We have given anxious consideration to the submissions made by the learned counsel for the parties, who have assigned various reasons in support of their respective propositions. As aforesaid, in this order, we are only dealing with the question of interim relief/interim arrangement during the pendency of these appeals.

9. As noticed, the present appeals (Civil Appeal No. 5941 of 2022 and Civil Appeal No. 1925 of 2023) are directed against an interim order of the Appellate Tribunal. However, the said interim order, *prima facie*, gives rise to several questions worth consideration, including the fundamental one as to the tenability of the proposition of "project-wise

resolution” as adopted by the Appellate Tribunal. The question, at present, is as to what should be the interim relief/interim arrangement until disposal of these appeals. In regard to this question, we may take note of the relevant principles in relation to the matter concerning grant of interim relief which have been re-emphasized by this Court in the case of

***Union of India and Ors. v. M/s Raj Grow Impex LLP and Ors.: 2021***

**SCC OnLine SC 429** as follows:-

“**194.** In addition to the general principles for exercise of discretion, as discussed hereinbefore, a few features specific to the matters of interim relief need special mention. It is rather elementary that in the matters of grant of interim relief, satisfaction of the Court only about existence of *prima facie* case in favour of the suitor is not enough. The other elements i.e., balance of convenience and likelihood of irreparable injury, are not of empty formality and carry their own relevance; and while exercising its discretion in the matter of interim relief and adopting a particular course, the Court needs to weigh the risk of injustice, if ultimately the decision of main matter runs counter to the course being adopted at the time of granting or refusing the interim relief. We may usefully refer to the relevant principle stated in the decision of Chancery Division in *Films Rover International Ltd. v. Cannon Film Sales Ltd.* : (1986) 3 All ER 772 as under:—

“....The principal dilemma about the grant of interlocutory injunctions, whether prohibitory or mandatory, is that there is by definition a risk that the court may make the “wrong” decision, in the sense of granting an injunction to a party who fails to establish his right at the trial (or would fail if there was a trial) or alternatively, in failing to grant an injunction to a party who succeeds (or would succeed) at trial. **A fundamental principle is therefore that the court should take whichever course appears to carry the lower risk of injustice if it should turn out to have been “wrong”** in the sense I have described. The guidelines for the grant of both kinds of interlocutory injunctions are derived from this principle.”

(emphasis in bold supplied)

**195.** While referring to various expositions in the said decision, this Court, in the case of *Dorab Cawasji Warden v. Coomi Sorab Warden* : (1990) 2 SCC 117 observed as under:—

“16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status

quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. **But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines.** Generally stated these guidelines are:

(1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.

(2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.

(3) The balance of convenience is in favour of the one seeking such relief.

17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion."

(emphasis in bold supplied)

**196.** In keeping with the principles aforesaid, one of the simple questions to be adverted to at the threshold stage in the present cases was, as to whether the importers (writ petitioners) were likely to suffer irreparable injury in case the interim relief was denied and they were to ultimately succeed in the writ petitions. A direct answer to this question would have made it clear that their injury, if at all, would have been of some amount of loss of profit, which could always be measured in monetary terms and, usually, cannot be regarded as an irreparable one. Another simple but pertinent question would have been concerning the element of balance of convenience; and a simple answer to the same would have further shown that the inconvenience which the importers were going to suffer because of the notifications in question was far lesser than the inconvenience which the appellants were going to suffer (with ultimate impact on national interest) in case

operation of the notifications was stayed and thereby, the markets of India were allowed to be flooded with excessive quantity of the said imported peas/pulses.”

10. In the light of the principles aforesaid, in our view, as at present, we should adopt the course which appears to carry lower risk of injustice, even if ultimately in the appeals, this Court may find otherwise or choose any other course. In that regard, the element of balance of convenience shall have its own significance. On one hand is the position that the Appellate Tribunal has adopted a particular course (which it had adopted in another matter too) while observing that the project-wise resolution may be started as a test to find out the success of such resolution. The result of the directions of the impugned order dated 10.06.2022 is that except Eco Village-II project, all other projects of the corporate debtor are to be kept as ongoing projects and the construction of all other projects is to be continued under the supervision of the IRP with the ex-management, its employees and workmen. Infusion of funds by the promoter in different projects is to be treated as interim finance, regarding which total account is to be maintained by IRP. If at the present stage, on the submissions of the appellants, CoC is ordered to be constituted for the corporate debtor as a whole in displacement of the directions of the Appellate Tribunal, it is likely to affect those ongoing projects and thereby cause immense hardship to the home buyers while throwing every project into a state of uncertainty. On the other hand, as indicated before us, the other projects are being continued by the IRP and efforts are being made for infusion of funds with the active assistance of the ex-management but

without creating any additional right in the ex-management. In our view, greater inconvenience is likely to be caused by passing any interim order of constitution of CoC in relation to the corporate debtor as a whole; and may cause irreparable injury to the home buyers. In this view of the matter, we are not inclined to alter the directions in the order impugned as regards the projects other than Eco Village-II.

11. In relation to Eco Village-II project, since CoC was ordered to be constituted by the Appellate Tribunal in the impugned order dated 10.06.2022, we are not interfering with those directions too but, in our view, any process beyond voting on the resolution plan should not be undertaken without specific orders of this Court.

12. The other propositions, including that of constituting monitoring committee, are kept open, to be examined later, if necessary.

13. For what has been discussed hereinabove, the impugned order dated 10.06.2022 is allowed to operate subject to the final orders to be passed in these appeals and subject, of course, to the modification in respect of Eco Village-II project that the process beyond voting on resolution plan shall await further orders of this Court.

14. The interim direction dated 27.01.2023 by this Court in these matters is modified in the manner that the NCLAT may deal with the offers said to have been received and pass an appropriate order thereupon but, the entire process shall remain subject to the orders to be passed in these appeals.



15. These appeals may be listed for final hearing at the admission stage in the second week of July, 2023.

**Civil Appeal No. 1975 of 2023**

16. As regards Civil Appeal No. 1975 of 2023, no interim relief or interim arrangement is considered requisite at the present stage. The question of maintainability of this appeal is also kept open, to be examined at the appropriate stage. This appeal also be listed along with Civil Appeal No. 5941 of 2022.

**Regarding interlocutory applications**

17. In the interest of justice, it is made clear that other pending interlocutory applications in these matters are also left open to be examined at appropriate stage with liberty to the parties to mention, if so advised and necessary.

..... J.  
(DINESH MAHESHWARI)

..... J.  
(SANJAY KUMAR)

**NEW DELHI;  
MAY 11, 2023.**

ITEM NO.1502

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s).1925/2023

INDIABULLS ASSET RECONSTRUCTION  
COMPANY LIMITED

Appellant(s)

VERSUS

RAM KISHOR ARORA &amp; ORS.

Respondent(s)

[HEARD BY: HON'BLE DINESH MAHESHWARI AND HON'BLE SANJAY KUMAR,  
JJ.]  
WITH

C.A. No.5941/2022 (XVII)

C.A. No.1975/2023 (XVII)

Date : 11-05-2023 These appeals were called on for pronouncement  
of order.

For Appellant(s)

Mr. Mahesh Agarwal, Adv.  
Mr. Ankur Saigal, Adv.  
Mr. Shashwat Singh, Adv.  
Ms. Geetika Sharma, Adv.  
Mr. Sumesh Dhawan, Adv.  
Mr. E. C. Agrawala, AOR

Mr. Balaji Srinivasan, AOR

Mr. Angad Varma, Adv.  
Mr. Toyesh Tiwari, Adv.  
Mr. Nikhil Mehndiratta, Adv.  
M/s. Dua Associates, AOR

For Respondent(s)

Mr. Siddharth Bhatli, Adv.  
Mr. Dinesh Kumar Garg, AOR  
Mr. Abhishek Garg, Adv.  
Mr. Dhananjay Garg, Adv.  
Ms. Khyati Jain, Adv.  
Mr. Ishaan Tiwari, Adv.

Mr. Nakul Dewan, Sr. Adv.  
Mr. R. Gopalakrishnan, AOR  
Mr. Somdutta Bhattacharyya, Adv.  
Ms. Niharika Sharma, Adv.

Ms. Kiran Sharma, Adv.  
 Mr. Sathvik Chandrasekar, Adv.  
 Mr. R Sudhinder, Adv.  
 Mr. R Gopalakrishnan, Adv.

Mr. Viplan Acharya, Adv.  
 Mr. N. B. V. Srinivasa Reddy, Adv.  
 Mr. Akshat Srivastava, AOR

Mr. Divyesh Pratap Singh, AOR

Mr. Himanshu Shekhar, AOR  
 Mr. M. L. Lahoty, Adv.  
 Mr. Paban Kumar Sharma, Adv.  
 Mr. Anchit Sripat, Adv.  
 Mr. Pranab Kumar Nayak, Adv.  
 Mr. Arvind Kumar, Adv.

Mr. Nishant Verma, AOR  
 Ms. Shisba Chawla, Adv.  
 Mr. Sourav Singh, Adv.

Mr. Ravi Prakash Mehrotra, Sr. Adv.  
 Mr. Apoorv Srivastava, Adv.  
 Mr. Jogy Scaria, AOR

Mr. Somesh Dhawan, Sr. Adv.  
 Mr. Mahesh Agarwal, Adv.  
 Mr. Rishi Agrawala, Adv.  
 Mr. Ankur Saigal, Adv.  
 Ms. Geetika Sharma, Adv.  
 Mr. Shivam Shukla, Adv.  
 Mr. E. C. Agrawala, AOR

Hon'ble Mr. Justice Dinesh Maheshwari pronounced the order of the Bench comprising His Lordship and Hon'ble Mr. Justice Sanjay Kumar.

In terms of the signed order, Civil Appeal No.5941 of 2022 and Civil Appeal No.1925 of 2023 may be listed for final hearing at the admission stage in the second week of July, 2023 and Civil Appeal No.1975 of 2023 be listed along with Civil Appeal No.5941 of 2022.

Regarding interlocutory applications

In the interest of justice, it is made clear that other pending interlocutory applications in these matters are also left open to be examined at appropriate stage with liberty to the parties to mention, if so advised and necessary.

(ARJUN BISHT)  
COURT MASTER (SH)

(MATHEW ABRAHAM)  
COURT MASTER (NSH)  
(signed order is placed on the file)

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Advocates in I.A. No. 2763 of 2023 in CA (AT) (Ins) No. 406 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi, Ms. Jhanvi Vashisht, Advocates in I.A. No. 4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Ms. Raghwi Rawat, Mr. Kunal Arora, Advocates for R-1 (UBI).

Mr. Amish Tandon, Ms. Anushree K., Advocates for IFICI Ltd. in I.A. No. 3281 of 2022.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Raghav Dembla, Advocates for Indiabulls.

Mr. Rohan Thawani, Mr. Pratul Pratap Singh, Advocates in I.A. No. 3330 & 3331 of 2023.

Mr. Sumesh Dhawan, Mr. Nikhil Mehndiratta, Advocates for Intervenor/ Assets Care and Reconstruction Enterprise Ltd. in I.A. No. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate with Mr. Somdutta Bhattacharya, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Sathvik Chandrasekar, Advocates for R-2/IRP, along with Mr. Hitesh Goel, IRP in person.

Mr. Siddharth Sunil, Advocate in I.A. No. 2717, 4213 of 2022.

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Khyati Jain, Advocates

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L& T Finance Ltd.

Mr. Sourav Roy, Mr. Prabudh Singh, Mr. Kaushal Sharma, Mr. Vasudev Singh, Advocates for Noida Authority in I.A. No. 3206 of 2022.

Mr. Shaurya Krishna, Mr. Prakash Tiwari, Mr. Amit Garg, Advocates in I. A. No. 4713 of 2022.

Ms. Kanika Sachdeva, Mr. Pawan Shree Agrawal, Advocates for Homebuyers.

### **ORDER**

**27.07.2023:** Heard Mr. Nakul Dewan, Learned Senior Counsel appearing for the IRP. Status Report on behalf of Resolution Professional has been submitted in compliance of the order dated 05.07.2023. In the order dated 05.07.2023, we have noticed the submissions that due diligence process had already begun. In the Status Report Learned IRP had submitted that with regard to due diligence steps have taken and the said due diligence shall be completed within 4-5 weeks and Mr. Dewan submits that by 31.08.2023 the process regarding due diligence should be completed and within two weeks the term sheet of the interim finance shall be finalised signed and submitted in the Court.

2. Learned Counsel appearing for the Union Bank and other Learned Counsels for the Financial Creditor submitted that the process for obtaining interim finance is taking a long time by which the interest of the lenders are being suffering and there are no light with regard to dues of the lenders.

3. We are of the view that the process of interim finance has to be given a finalization and as suggested by Learned Counsel for the IRP we fixed 31.08.2023 as a dead line for completing the all process of due diligence and submission of the term sheet of the interim finance within two weeks thereafter in the Court after completing all formalities.

4. Learned Counsel for the IRP has also referred to the I.A. No. 2785 of 2023 which was noticed in our order dated 05.07.2023 in paragraph 9, 10. In the application I.A. No. 2785 of 2023 following prayers have been made:

- a) Pass appropriate directions upon the Promoters of the Corporate Debtor, being the Appellant herein, directing them to arrange interim finance to the tune of Rs. 50,00,00,000/- (Rupees Fifty Crore only) to complete the safety related activities, including but not limited to obtain requisite Fire NOCs/Occupancy Certificates and other safety related works, as indicated in the Technical Assessment Report of AECOM, as referred to at paragraph 15 hereinabove;*
- b) Pass appropriate directions upon the Promoters of the Corporate Debtor, being the Appellant herein, directing them to share a comprehensive action plan for the safety related aspects of each of the Non EV-II Projects and assist in completion of the safety related works on each of the Non EV-II Projects;*
- c) Pass appropriate directions, allowing the Applicant to utilise the funds or part thereof available in the 30% RERA designated accounts of the Non EV-II Projects of the Corporate Debtor, to complete the safety related works at the Non EV-II projects;*
- d) Pass any other order as this Hon'ble Appellate Tribunal may deem fit and proper.*

5. Learned Counsel submits that in the large number of projects which are part of the Corporate Debtor project provisions of fire safety are lacking either



incomplete or not at all taken care of. It is submitted that in some of the units peoples are also residing without there being any provisions of fire safety. It is further submitted that in some of the project units there are not even a occupancy certificate.

6. Submission of the Learned Counsel for the IRP is that IRP being now at the helm of the affairs it is the responsibility of the IRP to point out to the Court about the imminent danger of the people living in the units without there being in fire safety arrangements.

7. There cannot be two opinion that requirement of fire safety has to be put in place in all projects to ensure the safety of people who are residing in the units or who are yet to come in the units to reside their after obtaining their occupancy certificate and after completion of the other necessary requirements. The question which as on date has been raised by the applicant is the requirement of finance. At present according to the counsel for the IRP there are not sufficient funds available with the Corporate Debtor to make all arrangements regarding fire safety in the projects.

8. Learned Counsel for the IRP submits that the two accounts of the Corporate Debtor i.e. of 70% and 30% are open under the statutory requirement 70% account is being utilised for the construction only and 30% amount is kept reserved for lenders and other purpose. He submits that as on date certain amount is available in 30% account which temporarily be permitted to be utilised with the conditions that amount shall be replenished in the said account. The said equal amount shall be replenished in the account as

soon as possible. With regard to interim finance finalisation has to take place by 31.08.2023 and term sheet to be filed within two weeks thereafter. Learned Counsel for the IRP submits that as on date to begin with the taking steps for the fire safety an amount of Rs. 5 crores may be required.

9. In the facts of the present case permit the IRP to appropriate the amount of Rs. 2.5 crores to begin with all fire safety requirement and the issue with regard to further amount shall be considered on the next date. The amount which is appropriated shall be replenished in the said account as soon as possible. With regard to fire safety expenses IRP shall maintain a account and by an affidavit submit in the court. In I.A. No. 2785 of 2023 further order shall be passed on the next date.

10. We have already directed the Learned Counsel for the IRP to categorise all applications which are pending in this appeal including the applications by Home Buyers, other lenders and intervention application.

11. In the meantime, said categorisation shall be completed and in a chart form it should be submitted to the Court so that other applications may be considered. Those applications of which hard copies have not been filed they are permitted to filed within two weeks.

12. Learned Counsel for the Lenders (L& T Finance) have objected any withdrawal from 30% account.

13. Let these appeals be taken for consideration on **18<sup>th</sup> September, 2023**  
at **2.00 P.M.**

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/nn*

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Khyati Jain, Mr. Bhupender Premi, Advocates for Appellant.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Niharika Sharma, Ms. Himani Chhabra, Advocates for IRP.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No. 3281 of 2022.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Yash Srivastava, Advocates for Indiabulls.

Ms. Vibha Datta Makhija, Sr. Advocate, Ms. Baani Khanna, Mr. Pravin Gaur, Ms. Kanika Sachdeva, Advocates for Homebuyers.

Mr. Sumesh Dhawan, Mr. Nikhil Mehndiratta, Mr. Shaurya Shyam, Advocates for Intervenor in I.A. No. 3776.

Mr. Sarthak Sharma, Advocate for Applicant in I.A. Nos. 2717/2022 & 4213/2022.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. Paban K. Sharma, Mr. Pranas Kumar Nayan, Advocates for EV-2.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Advocates for R-1 (UBI).

Mr. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Advocates in I.A. No. 2763 of 2023

Mr. Nanshad Khan, Adv. in I.A. 624.

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for

L&T finance in I.A. No. 3034 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi and Mr. Vaibhav Kumar, Advocates in I.A. No. 4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikas Kumar, Advocates for Applicant in I.A. No. 4306.

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Mr. Kamal Agarwal for RP.

### **ORDER**

**18.09.2023:** After we have passed the order dt. 27.07.2023 a status report has been submitted by the IRP dated 15.09.2023. It has been submitted in the Status Report that the two due diligence i.e. legal and market/ valuation have been completed and reports submitted on 14.09.2023. It is submitted that the earnest and young LLP has been appointed to carry out the Financial and Tax Due Diligence which is under process. It is submitted that the agency i.e. EY has asked for certain further time of 7 to 10 days to complete their Financial and Tax Due Diligence. It is submitted that interim finance provider has submitted that after all reports are received in the same time all necessary formalities including the term sheet shall be completed and submitted.

2. A perusal of the status report indicates that substantial steps were taken after our order dated 27.07.2023 and looking to the huge data and number of projects the time prayed for completing the Financial and Tax Due Diligence is not unreasonable. We, thus, are of the view that a further opportunity of 10 days for completing Financial and Tax Due Diligence and thereafter further 10 days to completing the interim finance process including the term sheet be allowed.

3. Learned Counsel for the appellant submitted that appellant's have always been continuously providing all relevant data as and when asked for. He submits that appellant is still ready to provide any further information or data which is in their possession as and when demanded. We are of the view that the said process is to be completed within one week.

4. Learned Counsel for the Home Buyers have submitted that there are several issues raised in different applications which needs to be considered. Learned Counsel for the IRP by our earlier order was directed to categorise the applications and index them. It is submitted that certain new applications have been filed till date.

5. We are also of the view that the IRP may file a consolidated reply to all the applications giving their response to the issues raised in the applications and other relevant issues. We allowed IRP two weeks time from today to file a consolidated reply and the said reply may also be uploaded on the website, so that, all concerned may download the same.

6. Affidavit on behalf of the IRP dated 15.09.2023 has been looked into where IRP has given the details of amount of Rs. 2.5 crores released by our earlier order dated 27.07.2023. Learned Counsel for the IRP submits that work regarding fire safety is in progress, hence, certain more amount be released in the same term. In view of the aforesaid, we further direct utilisation of Rs. 2.5 crores in same terms and conditions as contained in the order dated 27.07.2023.

7. List this appeal on **19.10.2023** at **2.00 P.M.** by which date status report regarding completion of all steps should be filed. With regard to fire safety aspects IRP may also submit a up to date report.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/nn*



**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Lashita Dhingra, Ms. Khyati Jain,  
Mr. Bhupender Premi, Advocates for Appellant.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Sagar Thakkar,  
Advocates for Indiabulls.

Mr. Tanveer Oberoi, Advocate for Applicant in IA No. 4316 of 2023.

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikas Kumar, Advocates for Applicant  
in I.A. No. 4306 of 2023.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Kunal Arora, Ms. Raghwi Rawat,  
Advocates for R-1 (UBI).

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Ms. Vibha Datta Makhija, Sr. Advocate, with Mr. Viplav Acharya, Ms. Kanika  
Sachdeva, Mr. Karan M. Advocates for Homebuyers.

Mr. Sarthak Sharma, Advocate for Applicant in IA No. 2717 of 2022, 4213 of  
2022.

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for  
L&T finance in I.A. No. 3034 of 2022.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No.  
3281 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi and Mr. Umang Bhatia, Advocates in I.A. No.  
4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Soayib Qureshi, Mr. Harikesh Anirudhan, Advocates in IA No. 5452 of 2023.

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Nikhil Mehndiratta, Advocate in IA No. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Kiran Sharma, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Soremil Jahurvar, Advocates for IRP.

Mr. Hitesh Goel, IRP in person.

Mr. Akshit Tyagi, Mr. Chandrakant Tyagi, Mr. Naushad Ahmed Khan, Advocates for applicants in IA No. 624 of 2023.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Mr. Tushar Sharma, Advocates.

**ORDER**  
**(HYBRID MODE)**

**22.11.2023:** We have heard Mr. Nakul Dewan, Learned Sr. Counsel appearing for the IRP and other Learned Counsels appearing for the appellant as well as Learned Counsel for the Financial Creditors and Homebuyers.

2. In pursuance of our order dated 19.10.2023 report has been submitted by Resolution Professional dated 21.09.2023 under the heading 'Conclusion & Way Forward' the following has been stated:

*"IV. Conclusion & Way Forward*

*(1) The cashflow of the corporate debtor is declining and thus, it is imperative that fresh funds are infused in order to complete the pending construction work in the Non-Eco Village II Projects of the Corporate Debtor and complete the units of the allottees. Further, it is pertinent to note that the due diligence of the corporate debtor has been completed and reports are available with the stakeholders. Unfortunately, the investor selected for providing interim finance i.e., Oaktree has declined*

*to proceed forward with undertaking the proposed interim finance transaction.*

*(2) Following the directions of this Hon'ble Appellate Tribunal dated October 19, 2023, the IRP reached out to 11 shortlisted potential investors and requested them to submit their binding term sheet by November 10, 2023 after the expiry of the exclusivity period given to Oaktree i.e, October 31, 2023. Moreover, the IRP provided the access to the due diligence reports and other necessary data to the 11 potential investors after requisite non-disclosure agreements and release letters. Subsequently, multiple meetings were scheduled with the potential investors by the IRP and his team to explain the transaction and current status of the CIRP of Supertech Limited. However, no binding term sheets were received as on November 10, 2023. Subsequently, on November 11, 2023, the IRP informed all the interested investors that the timeline as specified by the court has elapsed and the interim finance process stands concluded.*

*3) However, Varde Partners, one of the potential investor, had a detailed discussion and meeting with the IRP and conveyed their interest in this opportunity since its inception, provided an exclusivity period of 3-4 weeks from the lenders/stakeholders shall be given to them in order to invest their time and efforts & submit a updated term sheet for interim financing in Non-Eco Village II Projects of the Corporate Debtor. Subsequently, in the Joint Lenders meeting held on November 18, 2023 and on November 20, 2023, the indicative terms of the investor were conveyed to the lenders in presence of the potential investor i.e., Varde. Moreover, in the said meeting, L&T Finance has given a go-ahead to provide exclusivity to Varde.*

*(4) The IRP had also approached, among other potential investors, the SWAMIH fund of State Bank of India for funding, who have responded vide aforementioned email dated November 15, 2023 that they were evaluating only 7-8 projects which prima-facie fits into their investment criteria and would take around 45-60 days to convey their interest in financing such projects.*

*5) Following the discussions in JLM and confirmation received from Varde Partners, and considering what has been stated hereinabove, it is hereby submitted in the humble opinion of the IRP that Varde Partners be granted an exclusivity period of 3-4 weeks to analyze and evaluate the transaction using the available due diligence reports. This period is intended for Varde to confirm their interest, if feasible, submit the binding term sheet, and resultantly infuse funds into the Corporate Debtor thereby ensuring completion of the construction activities of the projects and ultimately achieving resolution for all stakeholders involved.*

*(6) In case any such proposal is not deemed feasible, then the IRP be allowed to devise an alternative solution/ strategy by having detailed discussions with the Lenders/ Steering Committee and submit the same before this Hon'ble Appellate Tribunal, which may be taken up for evaluation and consideration."*

3. Learned Counsel for the Union Bank of India also submits that they have no objection if 3-4 weeks time is allowed to Varde Partners.

4. Learned Counsel for L&T Finance and Union Bank of India has agreed that 3-4 weeks time be allowed. Learned Counsel for the IRP has also in paragraph 5 of the Conclusion & Way Forward has opined that Varde Partners be granted an exclusivity period of 3-4 weeks to analyse and evaluate the transaction using the available due diligence report.

5. In view of the above submissions, we are inclined to grant further 3-4 weeks time to analyse and evaluate the transaction using the available due diligence report by Varde Partners.

6. We, however, are of the view that in the present case several orders were passed granting time for exploring the interim finance and till date no concrete

proposal has come forward and the time has been taken by Varde Partners to evaluate. It is not known that what outcome will come out of the said exercise.

7. We, thus, are of the view that side by side granting time to the Varde Partners for evaluate and come with term sheet, if any, the IRP with the lender shall devise an alternate mechanism to carry out the Project of Non-Eco Village-II and on the next date in event no interim finance comes forward shall submit a alternative mechanism report for consideration of the Court so further steps shall be taken forward. Enough time has been given for arranging a interim finance and we are not inclined to grant any further time for exploring a interim finance except the time which is being allowed under this order.

8. Learned Counsel appearing in various I.As has also submitted that there are several other issues pertaining to homebuyers and those who are living in the various projects. We are of the view that first question of interim finance need to be finalised and the way forward may be devised, only then the court shall proceed to consider the individual I.As and pass appropriate direction in those I.As. further.

9. In view of the aforesaid, we allow four weeks time for Varde Parterns to analyse and come with a term sheet duly vetted by the IRP and the Steering Committee. As directed above the IRP with the Steering Committee and lenders may devise an alternative mechanism and that may also be filed on the next date of hearing.

10. We direct this matter to be taken on **16.01.2024** at **2.00 PM.**

11. Learned Counsel for the IRP submits that with regard to fire safety projects is in progress and the amount which was already released has already exhausted.

12. Let the amount 2.5 crores be further release in terms as per earlier order dated 27.07.2023 passed by this Tribunal.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/md*

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Nikhil Mendiratta, Mr. Agastya Sen, Advocates in IA no. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Kiran Sharma, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Ashish Mukhi, Advocates for RP of Supertech.

Mr. Hitesh Goel, RP in person.

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Siddharth Bhatli, Ms. Apurva Praveen, Ms. Khyati Jain, Ms. Heena Kochar, Advocates for Appellant.

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. Shaurya Krishna, Mr. Amit Garg, Advocates for Applicant in IA No. 4713/2022.

Mr. Rohan Thowani, Mr. Pratul Pratap Singh, Advocates.

Mr. Rohit Oberoi, Ms. Jhanvi Vashisht, Ms. Mehak Bhalla, Advocates in IA No. 4574, 4775/2022.

Mr. Tanveer Oberoi, Advocate for Applicant in IA No. 4316 of 2023.

Mr. Sarthak Sharma, Advocate for Applicant in IA No. 2717 of 2022, 4213 of 2022.

Mr. M.L. Lahoty, Mr. Anchit Sripat, Advocates.

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikash Kumar, Advocates for



Applicant in I.A. No. 4306 of 2023.

Mr. M.P Sahay, Ms. Awanitika, Mr. Sachin Kharb, Mr. Tushar Sharma, Advocates for Applicant.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Jivtesh Singh Sandhu, Advocates for R-1 (UBI).

Mr. Gopal Jain, Sr. Advocate with Mr. Ajay Bhargava, Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L&T finance in I.A. No. 3034 of 2022.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No. 3281 of 2022.

**ORDER**  
**(HYBRID MODE)**

**12.02.2024:** In pursuance to our order passed on 22.11.2023, 2<sup>nd</sup> Status Report has been filed by IRP dated 11.02.2024 and earlier Status Report was filed on 15.01.2024. In our order dated 22.11.2023, we issued following direction in paragraphs 4,7 & 9:-

*“4. Learned Counsel for L&T Finance and Union Bank of India has agreed that 3-4 weeks time be allowed. Learned Counsel for the IRP has also in paragraph 5 of the Conclusion & Way Forward has opined that Varde Partners be granted and exclusivity period of 3-4 weeks to analyse and evaluate the transaction using the available due diligence report.*

*7. We, thus, are of the view that side by side granting time to the Varde Partners for evaluate and come with term sheet, if any, the IRP with the lender shall devise an alternate mechanism to carry out the Project of Non-Eco Village-II and on the next date in event no interim finance comes forward shall submit a alternative mechanism report for consideration of the Court so further steps*

*shall be taken forward. Enough time has been given for arranging a interim finance and we are not inclined to grant any further time for exploring a interim finance except the time which is being allowed under this order.*

*9. In view of the aforesaid, we allow four weeks time for Varde Partners to analyse and come with a term sheet duly vetted by the IRP and the Steering Committee. As directed above the IRP with the Steering Committee and lenders may devise an alternative mechanism and that may also be filed on the next date of hearing.”*

2. In the report which has been submitted by IRP dated 11.02.2024, it is submitted that certain progress has been made with regard to Varde Partners proposal for interim finance and Varde team has interacted with the IRP visited the sites and obtained necessary information and has done its due diligence sample of 707 customers were also shared by IRP. However, the report indicates that as on date no term sheet has been received, nor any concrete proposal for extending the interim finance. We had already in our order dated 22.11.2023 in paragraph 7 as extracted above has directed the IRP with the lenders to devise an alternative mechanism to carry out the project of Non-Eco Village-II.

3. Learned Counsel appearing for the Lenders submitted that sufficient time has been already granted for interim finance which has not yet come although several opportunities were granted. We, thus, are of the view that no further opportunity is required to be granted for interim finance. However, during consideration of these appeals if any final interim finance is received it

will be open for the IRP to apprise the Court with a term sheet and other materials.

4. Mr. Nakul Dewan, Learned Senior Counsel appearing for IRP submits that in view of directions which was issued in paragraph 7, the IRP has also collected certain data with regard to separate projects and has also discussed with the Steering Committee way forward.

5. The Corporate Debtor has several projects atleast 20 as noted in our earlier orders. Sufficient time has elapsed and no concrete proposal has come towards interim finance, Homebuyers are waiting for their units to be given to them. Homebuyers have also given substantial amount to the Corporate Debtor. Every project has different lenders, different charge holders.

6. Learned Counsel for the IRP submits that way forward can only be project wise resolution, for each project a concrete proposal has to be submitted in which after consultation with lenders and charge holders and the representative of the home buyers for that particular project. We, thus, are of the view that IRP be allowed to submit project wise resolution of the Corporate Debtor and for project wise resolution IRP shall prepare a draft proposal and send it to lenders and charge holders of the project and after receiving their inputs on the draft proposal may submit a proposal to the court for consideration. With regard to each project all concerned I.As shall also be considered while considering the projects. Let IRP finalize the project wise proposal and submit to the Court within a period of four weeks.

7. IRP has submitted that he shall give access to virtual data to the request which has been made by any stake holder after due verification.

8. Learned Counsel for the IRP referring to Status Report dated 15.01.2024 submitted that with regard to fire safety related issues the several safety work has been completed he has referred to Annexure A8 where Summary of safety-related work that has been planned, completed, and paid for till 05.01.2024 has been tabulated. It is submitted that amount of INR 8.6 crores has been spent towards the safety related work and details have been mentioned with regard to aforesaid safety related work in paragraph 4 of the report. In paragraph 4 (h) of the report following has been further stated:

*“4. h) In light of what have been stated hereinabove, if this Hon’ble Appellate Tribunal may permit the IRP to appropriate another INR 2.5 crore from funds lying in designated 30% accounts of the projects, to complete the pending safety related work as per the budget and plan proposed in the application filed by the IRP and will also be a significant improvement in ensuring the safety of occupants.”*

9. We permit the further release of another INR 2.5 crore from funds lying in designated 30% accounts as in term and conditions of earlier order dated 27.07.2023. IRP shall submit a detailed report regarding work done details of the payment and other details in the next report with regard to fire safety a separate report be submitted with regard to projects in question.

10. List this appeal on **22.03.2024** at **2.00 PM**.

11. Learned Counsel for the IRP has submitted that separate date be given with regard to Eco-Village-II Project in which CoC has already been constituted.

12. He has filed I.A. No. 303 of 2024 in Comp. App. (AT) (Ins.) No. 406 of 2022. Let I.A. No. 303 of 2024 be listed along with the appeal on **20.03.2024** at 2.00 PM.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/nn*

**Details of Freeze Account**

S. NO.	BANK NAME	ACCOUNT STATUS	RATIO %	REVISED PROJECT NAME	ACCOUNT NO.	BALANCE 07.03.2025 APPROX (INR Crores)
1	HDFC	FREEZE	NORMAL CURRENT A/C	GREEN - VILLAGE	05902320000031	0.97
2	ICICI	FREEZE	NORMAL CURRENT A/C	Araville	777705861357	3.09
3	UBI	FREEZE	NORMAL CURRENT A/C	ECO VILLAGE 1	510341000674025	0.06
4	UBI	FREEZE	NORMAL CURRENT A/C	ECO VILLAGE 3	510101006585602	0.00
5	IDBI	FREEZE	NORMAL CURRENT A/C	HO	191102000009720	0.47
6	UBI	FREEZE	NORMAL CURRENT A/C	HO	510341000698382	0.00
7	UBI	FREEZE	NORMAL CURRENT A/C	ROMANO	510341000698404	0.02
8	ICICI	FREEZE	30%	HILL TOWN	003105038392	0.00
Total						4.61

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Comp. App. (AT) (Ins) No. 406 of 2022**

**IN THE MATTER OF:**

**Ram Kishor Arora Suspended Director of Supertech Ltd.** **...Appellant(s)**

**Versus**

**Union Bank of India & Anr.** **...Respondent(s)**  
**Present:**

Mr. Gopal Jain, Sr. Advocate with Mr. G.G. Kashyap, Mr. Ronvijay Gohain, Ms. Anam Ahmad, Advocates for NBCC (I) Ltd.

Mr. Ravindra Kumar, Sr. Advocate, Mr. U.N. Singh, Mr. Shivam Saxena, Advocates for Greater Noida Industrial Development Authority.

Mr. Abhijeet Sinha, Sr. Advocate with Ms. Lashita Dhingra, Ms. Heena Kocchar, Mr. Javed Akhtar, Mr. Mohd. Hussain, Ms. Neha Bahl, Advocates for Appellant.

Mr. Sudhir N., Sr. Advocate with Mr. Iswar Mohapatra, Mr. Santosh Rout, Advocates for Bank of Baroda. Mr. S. Tripathi, AGM

Mr. Nakul Dewan, Sr. Advocate with Mr. Somdutta Bhattacharya, Mr. Ashish Mukhi, Ms. Kiran Sharma, Ms. Himani Chhabra, Advocates for RP of Supertech Ltd.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No. 3281/2022.

Mr. Sourav Roy, Ms. Anshu Deshpande, Advocates for Noida Authority.

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikas Kumar, Advocates in IA No. 4306/2023.

Mr. Tanveer Oberai, Advocate in IA No. 4316/2023.



Mr. Ankit Sharma, Advocate.

Mr. Arvind Nayar, Sr. Advocate with Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L & T Finance and ARCIL.

Mr. Mohit Sharma, Advocate for YEIDA.

Mr. Nikhil Mehndiratta, Advocate for Applicant in IA No. 3776/23.

Mr. Alok Kumar, Ms. Somya Yadava, Advocates for R-1/UBI.

Mr. Amit Singh, Mr. Vaibhav Jindal, Mr. Adarsh Nair, Advocates for Respondents in IA No. 5544/2024 (Eco Village-I)

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Sagar Thakkar, Mr. Shaurya Shyam, Advocates for Indiabulls.

Ms. Vibha Makhija, Sr. Advocate with Mr. Kushal Bansal, Mr. Anish Alhawati, Advocates for intervenor/supertech homebuyers association in IA No. 5746,5747,5748,6673 of 2024.

Mr. MP Sahay, Ms. Yaman Verma, Ms. Drishti Narbar, Mr. Kartik Jindal, Ms. Srishti Malik, Advocates for Applicant in IA 6563/2024, 2763/2023.

Mr. Bhaskar Tripathi, Mr. Venamra, Advocates for H.B. of Hilltown.

Ms. Dipti Singh, Mr. Martand Naryan Shukla, Mr. Akshay, Advocates for upcountry buyer's association.

**ORDER**  
**(Hybrid Mode)**

**19.09.2024:** Heard Shri Nakul Dewan, Ld. Sr. Counsel appearing for the IRP, Shri Gopal Jain, Ld. Sr. Counsel appearing for IA No. 6557 of 2024 filed by the NBCC.

2. Ld. Counsel for the Noida, Greater Noida, Landowners, Lenders and Yamuna Expressway Authority of India as well as the Homebuyers are allowed two weeks to file objection to the IA No. 6557 of 2024 which objection be also

given to the IRP. All objections may be tabulated by the IRP and substance of the objection in a chart-form be placed before the court on the next date of hearing so that NBCC's application and the objections can be considered and disposed of.

3. All the Lenders, Homebuyers, Landowners, Banks are permitted to e-file the objections with a copy to IRP. Copy of the objection to the NBCC's application be served to the Ld. Counsel appearing for the Applicant Shri Gopal Jain and the Appellant.

4. Shri Nakul Dewan, Ld. Sr. Counsel submits that the summary of all objections received to the NBCC's application shall be put on the website so that everybody can access to the website.

5. List on **21.10.2024** at 2: 00 PM high on the board for rest of the matters.

6. With regard to IA No. 6644 of 2024 relating to Doon Square Project, it is submitted by Ld. Counsel for the Appellant that the Bank of Baroda who is a sole lender has already agreed for a resolution. Ld. Sr. Counsel Ms. Vibha Makhija, appearing for the group of homebuyers also submit that homebuyers also support the said proposal and IA No. 6673 of 2024 is also filed in support of the said.

7. Let the Doon Square Project along with all concerned IA's with regard to project be taken on **25.09.2024** at 2: 00 PM.

8. Shri Nakul Dewan, Ld. Sr. Counsel for the IRP submits that with regard to CIRP cost no finances are available and as per the earlier order the details of the CIRP cost has been placed before the Committee of Creditors and the

Committee of Creditors in its 26<sup>th</sup> meeting held on 10.09.2024 has noted the same and approved the CIRP cost.

9. Shri Dewan, Ld. Sr. Counsel submits that under the order dated 10.06.2022 with regard to 30% account maintained the direction was issued for disbursement to the lenders due to which direction certain hesitation is shown for payment of CIRP cost. We clarify that payment of CIRP cost as approved by the CoC may be credited from 30% account with all necessary details and the report of expenses and the payments received out of the said account shall be filed along with the report in the court before the next date of hearing i.e. before 21.10.2024.

10. Now coming to the Capetown maintenance IA No. 4306 of 2023 it is submitted that there is a registered association of Capetown maintenance but the earlier agency which was appointed by the promoters is still maintaining there are several lapses in the maintenance, it has been noted in the earlier orders that IRP has already issued a show cause notice to the earlier maintenance agency.

11. Ld. Counsel appearing for the Capetown maintenance submits that the registered association of homebuyers is ready to take responsibility of the maintenance and IRP may get inventory prepared of inspection of all deficiencies and handover. IRP may consider handing over the maintenance to the registered association and appropriate steps be taken before the next date.

12. IA No. 6563, 6683 of 2024- Let IRP respond to these two applications.

13. Parties are at liberty to file all the hard copies before the next date fixed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

*sr/nn*

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 406 of 2022 &**  
**Interlocutory Application No.6557 of 2024**

**IN THE MATTER OF:**

Ram Kishor Arora  
 Suspended Director of Supertech Ltd. ... Appellant

Versus

Union Bank of India & Anr. ... Respondents

**Present:**

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Siddharth Bhatli, Ms. Lashita Dhingra, Ms. Anvesha Jain, Ms. Heena Kochar and Ms. Khyati Jain, Bhupendra P., Advocates.

Mr. Gopal Jain, Sr. Advocate with Mr. Gudipati G. Kashyap, Mr. Ronvijay Gohain, Ms. Anam Ahmad, Advocates for NBCC (I) Ltd.

Mr. Sudhir Nand Raja, Sr. Advocate with Mr. Ishwar Mohapatra, Mr. Santosh Rout and Mr. Tripathi, Advocates for BoB.

Mr. Arvind Nayar, Sr. Advocate with Ms. Vanita Bhargava, Mr. Ajay Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L&T Finance and ACRE.

Mrs. Vibha Makhija, Sr. Advocate with Mr. Kushal Bansal, Ms. Esha Bhadoria, Mr. Karan Mamgain, Mr. Perveen and Mr. Anish Alhawati, Ms. Nehal, Advocates for Intervenor in I.A. Nos.8181, 8183, 8194, 8195, 8221, 8185, 5746, 5748 and 6673 of 2024.

Mr. Sanjiv Sen, Sr. Advocate with Mr. Suvigya Awasthy, Mr. Sameer Jain, Mr. Deepesh Raj, Ms. Anjali Singh, Mr. Pragyan Mishra, Mr. Rachit Mittal, Mr. Parish Mishra, Mr. Kanishk Raj, Mr. Adarsh Srivastava Advocates for Noida Authority.

Mr. Karan Valecha, Advocate for Applicant in IA No. 8194/2024.

Mr. Amar Gupta and Mr. Mohit Sharma, Advocate for YEIDA in Diary No. 54820/2024.

Mr. Ramji Srinivasan, Sr. Advocate with Mr. Nikhil Mehndiratta, Ms. Namrata Sarogi, Advocates in IA No. 3776/23.

Mr. Ravindra Kumar, Sr. Advocate with Mr. U N Singh, Mr. Shivam Saxena, Ms. Sandhya Chaturvedi, Mr. HGS Pandey, Advocates for Greater Noida Authority.

Mr. Akash Chatterjee, Mr. Pranav Gupta, Advocates for Applicant in IA No. 8184 of 2024.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for IFCI Ltd. in IA 3281/2022.

Mr. Milan Singh Negi, Advocate for Applicant in I.A. No. 8231/2024.

Mr. Amit Singh, Mr. Vaibhav Jindal, Mr. Adarsh Nair, Advocates in IA No. 5544 for Respondents (Eco Village-1)

Mr. Dhananjay Sahai, Mr. Lokesh Nandan, Advocates in IA No. 8192 of 2024.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Sagar Thakkar, Mr. Shaurya Shyam, Advocates for Indiabulls ARC/Samman Capital

Mr. Alok Kumar, Ms. Somya Yadava, Mr. Kunal Arora, Ms. Parnika Jolly, Advocates for R-1/UBI

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikash Kumar, Advocates in IA No. 4306/2023 for Capetown association.

Mr. Arpit Dwivedi, Ms. Sakshi Kapoor, Advocates for Applicant in IA No. 2717/2024, 6518/2024.

Mr. Pawan Shree Agarwal, Advocate for Applicant in IA No. 3619/2023.

Mr. Mohit Sharma, Advocate for YEIDA in Diary No. 54820/2024.

Mr. Tanveer Oberoi, Advocate in IA No. 4316/2023 for Applicant.

Mr. Anshul Sharma, Mr. Rohan Panwar, Advocates for the registered hombuyers (Supertech Golf Country Welfare Association).

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikash Kumar, Advocates in IA No. 4306/2023 for Capetown Association.

Mr. Nakul Dewan, Sr. Advocate with Mr. R. Sudhinder, Mr. Somdutta Bhattacharya, Mr. Ashish Mukhi, Ms. Kiran Sharma and Ms. Himani Chhabra, Ms. Anushka Sharma, Advocates for IRP of Supertech Ltd. a/w Mr. Hitesh Goel, RP in person.

Mr. P. Nagesh Sr. Advocate with Mr. Nikhil Kumar Jha, Applicant in IA- 6683 of 2024.

Mr. Amit Singh and Mr. Adarsh Nair, Advocates in IA- 5544/2024 for Residents of Eco-Village-1.

Mr. Aman Gupta and Mr. Mohit Sharma, Advocates in Diary No. 54820/2024.

Mr. MP Sahay (AOR), Ms. Yaman Verma, Ms. Drishti Narbar, Mr. Kartik Jindal, Ms. Srishti Malik, Advocates for Applicant in IA Nos. 2763/2023, 6563 and 7184/2024.

Mr. Ankit Sharma, Applicant in IA- 6568 of 2024/ Supertech Azalia.

Mr. Iswar Mohapatra, Mr. Santosh Rout, Mr. Punit Bhansali, Advocates for BoB.

Mr. Tanveer Oberoi, Advocate in IA No. 4316/2023 for Applicant

Mr. Bhaskar Sharma a/w Mr. Sudhakar Tripathi, AGM for Bank of Baroda.

Mr. Bhaskar Tripathi and Mr. Venamra Mahaseth, Advocates for Hill town Homebuyer's Welfare Association in IA No.4576/2024 and I.A. 4545 of 2024.

Mr. Tathagata Dutta, P. Chaitanyashil and Mr. Krishna Mohan Menon, Advocates for Applicant in IA- 2981 of 2024.

Mr. Pawan Shree Agarwal, Mr. Ayush Sharma, Advocates in IA- 3619/2023.

Mr. Karmveer, Mr. Dilip K. Niranjana, Mr. Nikhil Kumar Singh, Ms. Sulakshana Yadav and Mr. Ajay Kumar, Advocates for Eco Village 2 welfare association, Eco village 1, Hilltown- Group of homebuyers.

## **J U D G M E N T**

**ASHOK BHUSHAN, J.**

**IA No.6557 of 2024**

In the Company Appeal (AT) (Ins.) 406 of 2022, the order passed by National Company Law Tribunal, New Delhi, Bench-VI dated 25.03.2022 admitting Section 7 Application filed by Union Bank of India against the Corporate Debtor - M/s. Supertech Limited is under challenge. M/s. Supertech Limited is a real-estate Company engaged in construction of various housing Project in Noida, Greater Noida and different other cities of

the country. The Financial Creditor – Union Bank of India has extended financial facilities to the Corporate Debtor for Project Eco Village-II located at Group Housing Plot No. GH-01, Sector 16B, Greater Noida (West), UP. There being default committed by CD in repayment of financial facilities, Section 7 Application was filed and admitted.

2. The Appeal was heard by this Tribunal and an interim order was passed on 12.04.2022, directing the IRP , not to constitute the Committee of Creditors till the next date. An order dated 10.06.2022 was passed in this Appeal, modifying the interim order to the extent that CoC was permitted to be constituted with regard to Project Eco Village-II only. With regard to other non- Eco Village-II Projects, IRP was directed, that all other Projects, apart from Eco Village-II shall be kept as ongoing Project. The construction of all other Projects was to continue with overall supervisions of IRP. Certain other directions were passed on 10.06.2022.

3. Challenging the order dated 10.06.2022, Union Bank of India – Financial Creditor filed an Appeal (Civil Appeal No.5941 of 2022). Another Appeal was filed by Indiabulls Asset Reconstruction Company Limited being Civil Appeal No.1925 of 2023. The Hon'ble Supreme Court passed an order in both the above Civil Appeals on 11.05.2023. By order dated 11.05.2023, the Hon'ble Supreme Court allowed the order dated 10.06.2022 passed by this Tribunal to operate, subject to final orders to be passed in the Appeals. In respect of Eco village-II, the Hon'ble Supreme Court directed that the process beyond voting on Resolution Plan shall await further order of the Hon'ble Supreme Court. Subsequent to the order of the Hon'ble Supreme



Court dated 11.05.2023, an Application was filed by the IRP (the Respondent herein) for fixing the date in the Appeal in view of the order of the Hon'ble Supreme Court dated 11.05.2023. On Application filed by the IRP, the Appeal was fixed for 05.07.2023. Various orders were passed by this Tribunal in the proceeding after hearing the learned Counsel for the Appellant, IRP, homebuyers, lenders and Authorities.

4. By an order dated 31.05.2024, after hearing the learned Counsel for the Appellants, IRP and other various Intervenors, noticing the earlier proceeding dated 12.02.2024, this Tribunal has directed for Project-wise resolution. Project-wise proposals were received and certain directions were issued regarding Project-wise list of creditors; Circulation of Project-wise resolution; Nomination by stakeholders of their respective authorised representatives and convening of Project-wise meeting. In pursuance of order dated 31.05.2024, steps were taken by the IRP. Several Intervention Applications were filed on behalf of the homebuyers' Association, individual homebuyers for intervention, which were permitted. In the order dated 31.05.2024, 16 Projects were noticed. In paragraph-5 of the order, Eco Village-II was not included in the list.

5. On 15.07.2024, when the Appeal was taken for consideration, a statement was made by learned Senior Counsel for the NBCC that it has sent an email to the IRP with the copy to the Union Bank of India, showing their interest in the Projects of the Corporate Debtor. The learned Counsel for the IRP was directed to share the relevant data, details and documents to the

NBCC. On 19.09.2024, IA No.6557 of 2024 was filed by the NBCC (I) Ltd.

Making the following prayers:

- “i. Allow the Applicant to undertake the projects in terms of TOR.
- ii. Issue necessary directions/orders as deemed fit and proper in the facts and circumstances by this Hon’ble Court.
- iii. Pass such other and further orders that this Hon’ble Tribunal may- deem fit and proper in the facts and circumstances of the present case.”

6. On 19.09.2024, following order was passed

**“19.09.2024:** Heard Shri Nakul Dewan, Ld. Sr. Counsel appearing for the IRP, Shri Gopal Jain, Ld. Sr. Counsel appearing for IA No. 6557 of 2024 filed by the NBCC.

2. Ld. Counsel for the Noida, Greater Noida, Landowners, Lenders and Yamuna Expressway Authority of India as well as the Homebuyers are allowed two weeks to file objection to the IA No. 6557 of 2024 which objection be also given to the IRP. All objections may be tabulated by the IRP and substance of the objection in a chart-form be placed before the court on the next date of hearing so that NBCC’s application and the objections can be considered and disposed of.

3. All the Lenders, Homebuyers, Landowners, Banks are permitted to efile the objections with a copy to IRP. Copy of the objection to the NBCC’s application be served to the Ld. Counsel appearing for the Applicant Shri Gopal Jain and the Appellant.

4. Shri Nakul Dewan, Ld. Sr. Counsel submits that the summary of all objections received to the NBCC’s application shall be put on the website so that everybody can access to the website.

5. List on 21.10.2024 at 2: 00 PM high on the board for rest of the matters.

6. With regard to IA No. 6644 of 2024 relating to Doon Square Project, it is submitted by Ld. Counsel for the Appellant that the Bank of Baroda who is a sole lender has already agreed for a resolution. Ld. Sr. Counsel Ms. Vibha Makhija, appearing for the group of homebuyers also submit that homebuyers also support the said proposal and IA No. 6673 of 2024 is also filed in support of the said.

7. Let the Doon Square Project along with all concerned IA's with regard to project be taken on 25.09.2024 at 2: 00 PM.

8. Shri Nakul Dewan, Ld. Sr. Counsel for the IRP submits that with regard to CIRP cost no finances are available and as per the earlier order the details of the CIRP cost has been placed before the Committee of Creditors and the Committee of Creditors in its 26th meeting held on 10.09.2024 has noted the same and approved the CIRP cost.

9. Shri Dewan, Ld. Sr. Counsel submits that under the order dated 10.06.2022 with regard to 30% account maintained the direction was issued for disbursement to the lenders due to which direction certain hesitation is shown for payment of CIRP cost. We clarify that payment of CIRP cost as approved by the CoC may be credited from 30% account with all necessary details and the report of expenses and the payments received out of the said account shall be filed along with the report in the court before the next date of hearing i.e. before 21.10.2024.

10. Now coming to the Capetown maintenance IA No. 4306 of 2023 it is submitted that there is a registered association of Capetown maintenance but the earlier agency which was appointed by the promoters is still maintaining there are several lapses in the maintenance, it has been noted in the earlier orders that IRP has already issued a show cause notice to the earlier maintenance agency.

11. Ld. Counsel appearing for the Capetown maintenance submits that the registered association of homebuyers is ready to take responsibility of the maintenance and IRP may get inventory

prepared of inspection of all deficiencies and handover. IRP may consider handing over the maintenance to the registered association and appropriate steps be taken before the next date.

12. IA No. 6563, 6683 of 2024- Let IRP respond to these two applications.

13. Parties are at liberty to file all the hard copies before the next date fixed.”

7. With regard to one of the Projects of the CD namely Doon Square Project, it was noted that OTS has been issued by the only lender, Bank of Baroda. Letter of Intent has also been issued and homebuyers has also been given consent for resolution of Doon Square Project, Court directed the Agreement with regard to Doon Square Project duly signed by the IRP be placed before the Court. On 16.10.2024, direction was issued with regard to Doon Square Project to implement Master Agreement and to complete the Project.

8. In Civil Appeal No.5941 of 2022, filed by Union Bank of India in the Hon’ble Supreme Court, an IA No.199233/2024 was filed by NBCC Ltd., in which IA, the Hon’ble Supreme Court has passed the following order on 01.10.2024:

“I.A. 199233/2024 in C.A. No. 5941/2022

Issue notice to all non-applicants.

The pendency of the present appeals and the present application will not come in the way of the National Company Law Appellate Tribunal<sup>1</sup>, Principal Bench, New Delhi, examining and deciding the proposal filed by the NBCC (India) Limited, formerly known as the National Buildings Construction Corporation<sup>2</sup>, vis-à-vis the 17 ongoing projects of the corporate debtor.

The parties are at liberty to raise all pleas and contentions before the NCLAT. We make no comments or observations in this regard, except stating that the pendency of the present appeals and the present application, on which notice has been issued, will not bar or prohibit the NCLAT from passing appropriate orders. The parties, if aggrieved by any such order, will be entitled to challenge the same in accordance with law.

While passing this order, we have taken into consideration the pleas and submissions made on behalf of the Union Bank of India, the NBCC (India) Ltd. and the flat buyers. NBCC (India) Ltd. has clarified that the object of filing the present application is not to interfere with the proceedings pending before the NCLAT but only to ensure that, in case any orders are required to be passed under Article 142 of the Constitution of India to implement and execute the orders passed by the NCLAT, in terms of its proposal, the same can be expedited and hurdles are not created.

We also clarify that the aforesaid observations and the liberty granted will apply equally to the “ECO Village-II project”.

The parties are granted liberty to ask for listing of the present matters.”

9. The order of the Hon’ble Supreme Court was placed before this Tribunal and has been noted in the proceeding dated 16.10.2024. By order dated 19.09.2024, this Tribunal already allowed time to the Noida, Greater Noida, Lenders and Yamuna Expressway Authority of India as well as the Homebuyers to file objections to IA No.6557 of 2024 filed by the NBCC. Objections were filed as was permitted on 19.09.2024. Learned Counsel for the IRP on 21.10.2024 submitted that he has received objections to the proposal submitted by NBCC for construction of the Projects. Certain objections raised by Homebuyers as well as learned Counsel for the Appellant were noticed in the order dated 21.10.2024. Looking to the objections that

NBCC has proposed to start construction of Projects in Phase-I and Projects under Phase-II and III to be taken up after the review of Phase-I progress and availability of funds, we in our order dated 21.10.2024 directed NBCC to give fresh composite proposal Project wise and the proposal submitted in September 2024, cannot be relied. Learned Counsel for the IRP also pointed out that in view of the order of the Hon'ble Supreme Court dated 01.10.2024, proposal of the NBCC may also include Eco Village-II.

10. NBCC filed fresh proposal on 11.11.2024 (hereinafter referred to as "11.11.2024 proposal of the NBCC"). Applications/ objections filed by the Homebuyers were directed to be listed and considered with respect to IA No.6557 of 2024. On 21.11.2024 liberty was granted to those, who had not filed objections to IA No.6557 of 2024. Various Applications and objections to the NBCC proposal was heard on 26.11.2024 to 29.11.2024.

11. We first proceed to consider IA No.6557 of 2024 filed by NBCC to take over the Projects and act as Project Management Consultant. We have also considered the objections raised by Noida, Greater Noida, Yamuna Expressway Authority to the proposal of the NBCC. Objections raised by the Lenders, charge holders, private land owners, individual homebuyers as well as Associations of Homebuyers, who have filed various objections with respect to different Projects.

12. The NBCC in its proposal dated 04.11.2024 has compiled the summary of objections received from land Authorities, Yamuna Expressway Industrial Development Authority, New Okhla Industrial Development Authority,

Greater Noida Industrial Development Authority, objections filed on behalf of lenders, corporate guarantee holders namely – Asset Care & Reconstruction Enterprise Ltd., Sammaan Capital Ltd., IndiaBulls Asset Reconstruction Company Ltd., IndiaBulls Commercial Credit Ltd. and the Homebuyers. As per our orders passed in this Appeal, IRP has tabulated the objections received from different stakeholders and communicated it to the NBCC. The NBCC in Annexure-C to proposal dated 11.11.2024 compiled the objections and its comments.

13. Learned Counsel appearing for Yamuna Expressway, Noida and Greater Noida have opposed the Application given by the NBCC mainly on two grounds. It is submitted that the above Authorities have provided land to the CD and there are liabilities on the CD towards statutory Authorities and the NBCC Proposal does not address repayment of these dues in Terms of Reference. It is submitted that without including any repayment plan in the NBCC Proposal, the Proposal is neither acceptable nor feasible. Further, the NBCC's request for waiver of statutory compliances or financial concession, cannot be accepted. Yamuna Expressway Authority, Noida and Greater Noida Authorities are statutory Authorities, who have to act in accordance with UP Industrial Development Act, 1976 and rules and regulations framed thereunder. No waiver from statutory compliances can be granted to the NBCC, since the Authorities are bound to follow all statutory Regulations. It is further submitted that in the Court Committee, which was proposed by the NBCC, the statutory Authorities are not included. It is contended that inclusion of statutory Authorities in Committee, which is constituted for

Project Management is necessary to safeguard the interest of the statutory Authorities. The statutory Authorities also are obliged by the statute to act in public interest. The Authorities have raised serious objections to various clauses as contained in Terms of Reference submitted by NBCC in its IA 6557 of 2024.

14. We have also heard learned Counsel appearing for Homebuyers, who have filed different IAs/ objections to the Proposal submitted by NBCC. In the Status Report submitted by IRP dated 20.11.2024, certain objections received from various stakeholders including Homebuyers have been tabulated as Annexure-A. Majority of learned Counsel appearing for the Homebuyers in different IAs have supported the Proposal given by NBCC for construction of Projects. It is submitted that Projects are incomplete and languishing for several years. The Homebuyers, who have made the payments of substantial amount as per Builder Buyers Agreement are waiting for possession of their homes for years together. Most of the Homebuyers have raised the amount for payment to builder by taking loans from the Banks and they are paying their EMIs to the Bank and on account of not being given the flats are suffering immensely. Most of the Homebuyers belong to middle income group or lower middle income group. It is submitted by learned Counsel for Homebuyers that while handing over the Projects to NBCC, it may be categorically made clear that no Homebuyer be asked to pay any additional amount apart from one, which was agreed to be paid by them under the Builder Buyers Agreement. Homebuyers can only be asked to pay



the balance amount, which is due to them as per Builder Buyers Agreement and no more.

15. We need to briefly notice the submissions advanced by learned Counsel appearing on behalf of several Intervenors, who have filed Intervention Applications in the Appeal. As noted above, one set of Intervenors are Homebuyers, individuals as well as Homebuyers' Association. We need to first notice the Applications filed by the Homebuyers and the stand taken by those Homebuyers with regard to NBCC Application – IA No.6775 of 2024.

16. **IA No.4306 of 2023** has been filed by Cape Town Association of Apartment Owners. They have highlighted the deficiencies in the Status Report filed by the IRP, safety issues, water and electricity issues and direction for IRP to hand over the possession to the allottees after procuring occupancy certificate. Learned Counsel appearing for the Applicant submits that Applicant has no objection to the Application filed by the NBCC to construct all 16 Projects. It is submitted that NBCC should proceed and do its due diligence.

17. **IA No.2763 of 2023** has been filed by Amandeep Singh and Ors. for Eco Village-II. The Applicant claims that Application has been submitted by 548 allottees in real-estate Project namely - Eco Village II, Eco Village II Phase II [Eco Village 4], Eco Village III, Upcountry and Sports Village. Learned Counsel for the Applicants submits that NBCC should be given the Project for completion.

18. **IA No.4973 of 2023** has been filed by Eco Village-II Welfare Association (Regd.). Learned Counsel appearing for the Applicant also submitted that NBCC should be given the Project to be constructed. The Applicant also express their no objection to the NBCC. However, it is contended that there shall be a Court Committee and the designated Bank account should be Project-wise. It is submitted that liability period should be five years, which has been stated to be two years in Terms of Reference given by the NBCC.

19. **IA No.7497 of 2024** has also been filed by Ecovillage 2 Welfare Association (Regd.) making similar submissions as noted above.

20. **IA No.3619 of 2023** has been filed by Sureel Singh and Ors., who claim to be allottees of Eco Village-I. It is submitted that they have paid the entire amount and the possession of plot has also been handed over to the Applicants, except three of the Applicants. However, the Conveyance Deed has not yet been executed till date. With regard to NBCC proposal, they submit that NBCC be not exempted from RERA requirements of maintaining separate account. The NBCC has not given any firm commitment regarding timeline. It is submitted that fire safety is not complete.

21. Learned Counsel appearing in **IA No.4545 of 2024** also submitted that Project be handed over to NBCC.

22. **IA No.4316 of 2023** relates to Project Supertech Czar Suites. It is submitted that 150 units are unsold. The Applicants have no objection if NBCC be given the Project.

23. **IA No.5746 of 2024** has been filed by allottee of Supertech North Eye, Super Tech Group Buyers Association. Ms. Vibha Makhija learned Counsel appearing for the Applicant contend that the NBCC has to give Project-wise Proposal. There should be definite source of finance and strict timeline. The NBCC need to take care of the delay, terms of the BBA need to be honoured by the NBCC. It may be clarified as to who shall bear the escalation cost. No exemption should be allowed from RERA provisions. Lenders and Authorities claims should also be taken care of. Project-wise Committee be constituted. How the financiers have to be satisfied also to be looked into and the IRP should also find a mechanism to represent Homebuyers in the Committee.

24. Ms. Vibha Makhija, learned Senior Counsel appearing on behalf of set of Homebuyers has also contended that there is no definite timeline given by the NBCC for completion of the Projects and the completion date as mentioned in Terms of Reference is indefinite, flexible and do not give any complete picture of time line under which construction will start and completed. It is submitted that there are several Projects, which can be completed in short period. Ms. Vibha Makhija has referred to five Projects namely - Green Village Meerut, Micasa, Rivercrest, Meerut Sports City and Araville, which can be easily completed by the Co-Developers as suggested by the Appellant. She, however, reiterated that Homebuyers are not much concerned with entities, who carries on construction. They are only concerned with regard to quality construction, construction in timeline and with no financial burdens on the Homebuyers, except those, who are under the Builder Buyers Agreement.

25. **IA No.6563 of 2024** has been filed by Gulshan Kumar and Ors. The Application is claimed to be filed on behalf of 18 Authorized Representatives of Homebuyers spanning eleven non-Eco Village II of Supertech. Details allottees of 11 Projects, who are being represented by the Applicant is tabled as Annexure A1 (Colly.). The Applicants claim to represent 26,475 allottees. Learned Counsel for the Applicant submits that Applicants support the NBCC Application. It is, however, submitted that a forensic audit be also conducted. There shall be Project-wise Committee and there shall be no cost escalation to the Homebuyers.

26. **IA No.2981 of 2024** has been filed by Romano Welfare Association. Learned Counsel submits that they welcome NBCC to take over the Projects.

27. **IA No.5544 of 2024** has been filed by G.S. Verma and Ors., who are allottees of Supertech Eco Village-I. Learned Counsel for the Applicant submits that they support the NBCC. It is submitted that lot of Homebuyers have taken possession and registration has also been done, but in some cases, registration has not yet been done. It is submitted that various dues are pending.

28. **IA No.8181 of 2024** has been filed by Satya Prakash on behalf of Supertech Group Buyers Association (on behalf of Micasa Project). The Applicants submit that NBCC Proposal falls short of the requisite standards of clarity and completeness. The proposal lacks definitive timelines. It is submitted that a developer namely – Ametek Buildtech has given a proposal, whose LoI may be accepted.

29. **IA No.8182 of 2024** has been filed by Prianka Srivastava on behalf of (North Eye) Homebuyer Representative. It is contended that revised Proposal submitted by NBCC falls short of the requisite standards of clarity and completeness. The Applicant supports the development of Project-wise through Co-Developer. It is submitted that without payments to the land Authorities and Banks, the Project will not be completed. The order may be passed as was directed in the matter of Doon Square Project.

30. **IA No.8183 of 2024** has been filed by Amit Bathla (Representative of Rivercrest). The Applicant does not support the NBCC Proposal. The Applicant support the Proposal given by M/s. Brick Boss Infra Pvt. Ltd.

31. **IA No.8184 of 2024** has been filed by Soniya Tyagi on behalf of (Eco Citi) Homebuyer Representative. The Applicant does not support the Proposal of NBCC. It is contended that Letter of Intent from various developers were invited to undertake construction of the Project and the Project be constructed accordingly.

32. **IA No.8185 of 2024** has been filed by Sarita Jha on behalf of (Eco Village-2) Homebuyer Representative, who contend that NBCC Proposal falls short of the requisite standards of clarity and completeness. The Applicant supports the LoI received from Apex Height Pvt. Ltd.

33. **IA No.8178 of 2024** has been filed Applicant/ Appellant, who contends that LoI received from Micasa Project, Bangalore and Green Village Project, Meerut of the CD by one M/s. Ametek Builtech India Pvt. Ltd. be allowed to

construct the Projects. It is submitted that there is a consent from Homebuyers, allottees, Promoter/ Ex-Management.

34. **IA No.8179 of 2024** has also been filed by Applicant/ Appellant stating that M/s. Brick Boss Infra Pvt. Ltd. has expressed its interest to revive specific Projects namely – Araville and Rivercrest Project and stakeholders of the Projects have also reached a consensus, hence, Tribunal may grant approval for the same.

35. **IA No.8194 of 2024** has been filed on behalf of Eco Village-3 has also objected to the Application of the NBCC. It is submitted that no Zero Date has yet been given by the NBCC, hence, the Project is to get delayed.

36. **IA No.8195 of 2024** has been filed by Authorised Representative of Green Village Meerut. It is contended that LoI received from Ameted Buildtech be allowed and orders be passed as was passed with regard to Project Doon Square and Co-Developer be allowed to construct.

37. **IA No.3776 of 2022** has been filed by Assets Care and Reconstruction Enterprise Ltd. It is submitted that Altico Capital India Ltd. had sanctioned loan of Rs.430 crores to Supertech ORB Projects Pvt. Ltd., wholly owned subsidiary of the CD and it has filed its claim in Form-C. Shri Ramji Srinivasan, learned Senior Counsel appearing for the Applicant states that the Applicant has no objection to the NBCC Proposal. It is submitted that it has to be Project-wise resolution and Lenders specific to the Project should be in the Committee. Project-wise accounting may be done and the loan of

Lenders be serviced Project-wise. Provisions of RERA may be complied with designated account may be opened.

38. Shri Arvind Nayyar, learned Senior Counsel appearing for L&T Finance Ltd. in **IA No. 3034 of 2022** submits that L&T Finance has no objection to the NBCC Proposal.

39. There are several other Intervention Applications filed by different Homebuyers claiming allotments. Some of them supported the NBCC Proposal and some of them objected to it.

40. **IA No.6714 of 2023** has been filed by land owners of Araville Project. It is contended that there is a revenue sharing model in collaboration. The Lenders are liable to pay dues of DTCP being Co-promoter. Provision should also be made for taking care of the dues of the land owners.

41. **IA No.6683 of 2024** has been filed by Apex Heights Pvt. Ltd. through its Authorised Representative, who also claimed to have given Proposal for Supertech Sports Village. The Applicant submits that its offering Rs.150 crores and it should be permitted to take the Project as Co-Developer.

42. **IA No.5482 of 2023** has been filed by IndiaBulls Housing Finance Ltd. seeking Intervention/ Impleadment in the Appeal. The Applicant claimed to be Financial Creditor, who has filed claimed in Form-C, which was initially accepted for Rs.1. It extended loan to another Group Company of the CD namely – Revital Reality Pvt. Ltd., to which the Supertech Ltd. is a Guarantor. The Application filed by the IndiaBulls is pending consideration before the NCLT. Learned Counsel for the Applicant states that NBCC Proposal

regarding distribution to the Lenders and Financial Creditors only if there is any surplus left, after completion of the Projects, cannot be accepted.

43. **IA No.4316 of 2023** has been filed by Nikhil Behl, whose claim of its unit has been cancelled. It is submitted that when unsold units are sold, some property be given to those unit holders, who were allottee and were allotted flats, which were subsequently cancelled.

44. Some of the learned Counsel, who are appearing on behalf of Homebuyers in different Applications, contended that Homebuyers are not much concerned as to who construct the Project, but they are concerned with timeline under which the construction has to complete and houses to be delivered to the Homebuyers. It is further submitted that Homebuyers be not asked to pay any extra amount, apart from the amount, which was agreed with the Builder Buyers Agreement. Some of the learned Counsel for the Homebuyers have also pressed for their entitlement for delay compensation on account of delay caused in handing over their houses. It is contended that delay compensation may be adjusted in the amount, which is payable by the Homebuyers as per Builder Buyers Agreement.

45. Learned Counsel appearing for different Homebuyers have also highlighted issues pertaining to the Projects in which they are concerned.

46. We are of the view that different issues raised by individual Homebuyers, pertaining to real-estate Projects, need no consideration at this stage, which can be addressed by the concerned Project Committees as in the manner hereinafter shall be directed.



47. Shri Abhijeet Sinha, learned Senior Counsel appearing for the Appellant also has opposed the Proposal submitted by NBCC. It is submitted that NBCC lacks *locus* to file any Application in this proceeding. The NBCC not being creditor, stakeholder or party in the Appeal, the Application of NBCC is liable to be rejected. It is submitted that although Application is titled Proposal on behalf of NBCC, but Application does not propose any substantive proposal and at best can be described as Proposal to give Proposal. Shri Sinha has also referred to the order dated 21.10.2024, where NBCC was directed to give fresh composite Proposal Project-wise. It is submitted that NBCC in its Proposal in Terms of Reference has repeatedly stated that it is not a Resolution Plan. It is contended that NBCC does not seek to take any liability under the provisions of IBC and requesting this Tribunal to take over all the Projects of the CD, without undertaking the construction of stalled Projects, accepting any liability or being responsible for any obligation associated with the Projects. The NBCC contends that it is submitting Proposal on the basis of Amrapali judgment of the Hon'ble Supreme Court. It is submitted that in the present matter multiple parties are involved and in the Amrapali matter, Court Receiver was appointed in exercise of jurisdiction by Hon'ble Supreme Court under Article 142 of the Constitution of India. It is submitted that there is no certainty regarding Day Zero in timeline for completion of the Projects. The timeline for calculating Day Zero is uncertain and flexible. Obtaining permission and approvals from the statutory Authorities in the name of Supertech, without settling claims or providing their dues, has been opposed by the learned Counsel for Authorities. NBCC cost per square feet is higher. There is no fund guarantee

or available with NBCC, except certain comfort letters. The NBCC Proposal that any surplus fund left over after construction of the Project, the dues were to be paid as unworkable. All lenders and Authorities have opposed the said stand taken by the NBCC. The learned Counsel for the Appellant submits that with regard to five Projects namely - Green Village Meerut, Micasa, Rivercrest, Meerut Sports City and Araville can successfully be completed with the assistance of Co-Developers and Investors, who are ready to infuse funds. Resolution Plan and road map with regard to aforesaid five Projects is already on the record. It is not necessary that all Projects should be handed over to the NBCC. Above five Projects be constructed as per the mechanism already envisaged by this Tribunal vide its directions to Project-wise resolution. The above five Projects, can be completed expeditiously and earlier than the timeline proposed by the NBCC, should be handed over in the manner as suggested. It is submitted Doon Square Project, which has already been directed by this Tribunal to be constructed as per the Agreement between the parties, including the Lender in the model in which Doon Square Project is to finish. At least above five Projects be also provided to be proceeded with. The Project-wise Proposal for above five Projects is pending consideration before this Tribunal. Exemption sought by NBCC from compliance of the statutory provisions, cannot be granted. The Applicants are fully compatible to deliver the remaining 13,000 homes. It is submitted that Project-wise Proposal present a more comprehensive, transparent and feasible approach for resolving the issue in hand and this Tribunal may dismiss IA No.6557 of 2024 as not maintainable and consider the Project-

wise Proposal, which have shown a greater financial commitments, better timeline and clearer roadmap for Projects completion.

48. Learned Counsel for the Union Bank of India (Financial Creditor) has supported the NBCC. It is submitted by learned Counsel for the Union Bank of India that NBCC focuses on execution of entire Project in time bound manner. It is submitted that there can be a Sub-Committee Project-wise, which can be dealt with by IRP and IRP may address the grievances and issues pertaining to individual Projects. The NBCC has already conducted its due diligence with the documents and materials, which were supplied by the IRP. Finally, it is submitted that carrying on entire Project by one entity shall ensure confidence building among Homebuyers, Lenders and Authorities. The NBCC proposes to bring money from cash surplus Project to cash negative Project, to complete all Projects. The NBCC being a PSU and audited by CAG and having a proven track record, have both capability and capacity to raise funds from HUDCO and other Financial Institutions to complete the Project in time bound manner. Court appointed Committee will ensure that NBCC shall focus on completion of the Projects in time bound manner.

49. Learned Counsel for the IRP has given outline of objections raised by Authorities, Lenders, Homebuyers, Charge Holders as is reflected in its Status Report dated 20.11.2024. Shri Nakul Dewan, learned Senior Counsel appearing for the IRP submits that in event the Projects are to be given to the NBCC for construction as Project Management Consultant, in addition to the Court-appointed Committee to take all financial issues and supervise all the Project, there shall be Project-wise Committee, which may consist of IRP,

Land Authorities, Financial Lenders and representative of Homebuyers. It is submitted that in the Committee an Expert needs to be appointed, who has expertise in real-estate Projects. The learned Counsel for the IRP submitted that he shall be proposing a slew of directions, which need to be issued by this Tribunal for start and completion of the Project. Directions need to be issued to statutory Authorities for taking decision on sanction/ renewal of pending sanctions and other statutory compliances on an application made by the IRP. The learned Counsel for the IRP submits that in the Process Note to be submitted, details of directions prayed for and sought for, for construction of the Projects shall be included, which are necessary to be issued. The learned Counsel for the IRP has further submitted that NBCC cannot be allowed waiver from statutory compliances, including the compliances of the provisions of the RERA Act.

50. Learned Counsel for the Lenders, different Financial Institutions have also submitted that they are not opposed to Projects being handed over to the NBCC for construction. However, NBCC Proposal that payment to the Lenders, shall be considered from surplus after completion of the Projects is unacceptable. It is submitted that there has to be appropriate measures, appropriate provisions for payment of Lenders towards their dues. The Lenders' dues cannot be left unattended.

51. Shri Gopal Jain, learned Senior Counsel appearing for the NBCC referring to Application – IA No.6557 of 2024 and Proposal dated 04.11.2024, while summing-up his submission, contends that Proposal submitted by NBCC is based on prior proven track record in the Amrapali case, where the

NBCC had to construct around 37,000 flats as Project Management Consultant (“PMC”) Model. The NBCC has submitted Proposal for proper planning and implementation of the construction (not as a Resolution Applicant), but on the basis of Amrapali Model as directed by the Hon’ble Supreme Court in the **Writ Petition (Civil) No.940 of 2017 – Bikram Chatterji & Ors. vs. Union of India & Ors.** relating to Amrapali Group. The Hon’ble Supreme Court by various orders passed in the above Writ Petition has directed the NBCC to undertake the construction of Project and NBCC under the orders issued by the Hon’ble Supreme Court has constructed thousands of flats and handed over units to the Homebuyers. Learned Counsel for the NBCC submits that NBCC shall take all the 16 Projects, except Doon Square Project, which has already been directed to be resolved and with regard to which directions have already been issued by the Tribunal in the present Appeal. The 16 Projects shall also include Eco Village-II. It is submitted that NBCC assures safe and reliable quality of construction as per CPWD norms with third party inspection (including structural audit) shall be conducted by reputed Institute viz NIT/ IIT etc. The NBCC will follow the specifications and finishing schedule as per earlier approved building plans and as per Project Brochure. With regard to funding, learned Counsel submits that construction will start with the funds received from Financial Institutions, which may also include HUDCO, Kotak, HDFC. It is submitted that Rs.1800 crores shall be received from sold units and Rs.14,000 crores shall be received from unsold inventories. Agencies for execution of the Projects will be finalized by transparent e-tender. Start of construction will encourage sale of unsold inventory around 10,000 units and help curb

existing trust deficit in the Project. The receivables generated will be used for the construction purposes and shall be the primary source of the revenue for completion of the Projects. Surplus from receivables, after completion of the Projects will be given to the Committee (NCLAT appointed Committee) for distribution to stakeholders like Authorities, Banks etc. The learned Counsel for the NBCC has also opposed the submission of the Appellant that five Projects (as noted above) shall be handed over to Co-Developers as has been indicated by the Promoters. It is submitted that the Appellants, who are Promoters, who are responsible for non-completion of the Project, cannot be permitted to construct the aforesaid five Projects through Co-Developers, which are all cash rich Projects. It is submitted that NBCC has applied its due diligence on the basis of documents, records and materials provided by the IRP. Learned Counsel for the NBCC also submitted that NBCC shall not be asking for any waiver from statutory compliances and if need be, as noted by Hon'ble Supreme Court in its order dated 01.10.2024, the NBCC shall be approaching/ filing an appropriate Application in the pending Appeal before the Hon'ble Supreme Court for seeking such directions as may be necessary for expeditious implementation of the Projects.

52. We have considered the submissions of learned Counsel for the parties and perused the records.

53. The issue which needs to be first considered and decided is as to whether Application filed by NBCC i.e. IA No.6557 of 2024 deserve to be allowed or not? One of the related issues raised is as to whether all 16 projects excluding Doon Square and including Eco-Village-2 need to be

handed over to NBCC or at least five projects namely – Green Village Meerut, Micasa, Rivercrest, Meerut Sports City and Araville be permitted to be resolved and be handed over to the co-developers as identified by the Appellant.

54. From submissions of parties, following issues need to be considered and answered:

- (I) Whether IA 6557 of 2024 filed by NBCC praying for handing over all the projects of the Supertech Ltd. for construction, be allowed or not?
- (II) Whether in event NBCC is allowed to carry out construction, all 16 projects be handed over to the NBCC or construction of five projects namely - Green Village Meerut, Micasa, Rivercrest, Meerut Sports City and Araville be handed over to the co-developers as identified by the Appellant?
- (III) Whether the time lines for construction of all 16 project as proposed by the NBCC need to be approved?
- (IV) Whether NBCC's proposal to grant waiver from compliance of statutory provisions like building regulations and the Uttar Pradesh Real Estate Regulatory Authority 2016 as proposed in 'Terms of Reference' be waived?
- (V) Whether homebuyers, who have already been allotted units, which allotments are subsisting, can be subjected to

any escalation of cost in addition to dues, if any, as per the Builder Buyers Agreement?

- (VI) What directions need to be issued in this Appeal towards completion of construction of all 16 projects?

### **Question No. I & II**

55. Both the above issues being interconnected are taken together.

56. NBCC in I.A. No. 6557/2024 has prayed for taking all 17 Projects of the Corporate Debtor. 17 Projects have been listed in Annexure-A to I.A. No. 6557/2024 which are to the following effect:

<b>Sl No.</b>	<b>Phase</b>	<b>Project</b>	<b>Location</b>
1	<b>Phase-1</b>	Eco-village -2	Sec-16B, Greater Noida
2		Romano	Sec-118, Noida
3		Capetown	Sec-74, Noida
4		Czar Suites	Greater Noida
5		Eco- Village 3	Sec-16B, Greater Noida
6		Sports village	Sec-10, Greater Noida
7		Eco-citi	Sec-137, Noida
8	<b>Phase-2</b>	Northeye	Sec-74, Noida
9		Upcountry	Sec-17 A, Yamuna Expressway
10		Eco- Village 1	Sec-1, Greater Noida
11		Meerut sports city	Meerut
12		Green village Meerut	Meerut
13	<b>Phase-3</b>	Hilltown	Gurugram
14		Araville	Gurugram
15		Rivercrest	Rudrapur
16		Doon square	Dehradun
17		Micasa	Bangalore

57. Out of above 17 Projects, with regard to Project Doon Square listed as Item No. 16, Order has already been passed in this Appeal for resolution of the said Project under the Agreements of all Stakeholders, hence said Project



is deleted from the above list. Thus, there remains 16 Projects in the Annexure A in the Application which has been filed by the NBCC, the NBCC as on the basis of document and information received from IRP in IA 6557/2024. NBCC has proposed 17 Projects to be undertaken in 3 Phases; Phase 1, Phase 2 & Phase 3. Para 1.1 of the IA 6557/2024 is as follows:

**“1.1 STATUS OF THE ONGOING PROJECTS**

*Basis the information provided by IRP, NBCC had constituted various internal teams to examine the projects and submit its reports basis which the status of construction of the 17 (Seventeen) Projects along with tentative cost of construction have been categorised in different Phases as provided below and enclosed as **ANNEXURE-B (Colly.)**:*

*(a) Phase I: NBCC proposes to construct and deliver Projects identified in Phase I upon acceptance of TOR and upon directions of the Court Committee and infusion of funds*

*(b) Phase II: Construction works of the Projects identified in Phase II, may be taken up by NBCC in future subject to review of progress of work and realization of funds in Phase I/ infusion of funds and subject to directions of the Court Committee.*

*(c) Phase III: Construction works of the Projects identified in Phase III, may be taken up by NBCC in future subject to review of progress of work and realization of funds in Phase I & II/ infusion of funds and subject to directions of the Court Committee.”*

58. Annexure B which is filed along with the Application has tabulated receivables as per IRP Report and tentative balance construction cost assessed by NBCC with column of surplus/deficit and details of units in each Project. Annexure B which is part of the Application is as follows:

Phase	Project	Location	Receivable as per IRP Report (Rs in Cr)			Tentative Bal. Const. Cost as assessed by NBCC (Rs in Cr)			Surplus/Deficit (Rs in Cr)	UNITS as per IRP report (modified with *)			
			Sold	Unsold	Total Receivables	Const. Cost	Statutory fees, Charges or any other Contingencies @3%	TOTAL		% of Units Delivery	Total (in Nos.)	Sold (in Nos.)	Unsold (in Nos.)
Phase-1	Eco-village -2	Sec-168, Greater Noida	184.32	1,077.40	1,261.72	1,114.43	33.43	<b>1,147.86</b>	113.86		7135	6050	1085
	Romano	Sec-118, Noida	116.00	1,402.41	1,518.41	806.53	24.20	<b>830.73</b>	687.68		2130	1464	666
	Capetown	Sec-74, Noida	106.92	317.54	424.46	293.02	8.79	<b>301.81</b>	122.65		4932	4850	82
	Czar Suites	Greater Noida	38.44	81.90	120.34	60.56	1.82	<b>62.38</b>	57.96		2102	1948	154
	Eco-Village 3	Sec-16B, Greater Noida	150.44	843.92	994.36	594.04	17.82	<b>611.86</b>	382.50		3917	2866	1051
	Sports village*	Sec-10, Greater Noida	113.21	5,842.15	5,955.36	1,915.58	57.47	<b>1,973.05</b>	3,982.31		3657	335	3322
	Eco-citi	Sec-137, Noida	0.26	54.94	55.20	13.72	0.41	<b>14.13</b>	41.07		2151	2142	9
	<b>Total A</b>		<b>709.59</b>	<b>9,620.26</b>	<b>10,329.85</b>	<b>4,797.88</b>	<b>143.94</b>	<b>4,941.82</b>	<b>5,388.03</b>	<b>52%</b>	<b>26024</b>	<b>19655</b>	<b>6369</b>
Phase-2	Northeye	Sec-74, Noida	317.68	89.27	406.95	435.02	13.05	<b>448.07</b>	-41.12		2815	2428	387
	Upcountry	Sec-17 A, Yamuna Expressway	125.35	955.37	1,080.72	1,048.41	31.45	<b>1,079.86</b>	0.86		4661	4628	33
	Eco-Village 1	Sec-1, Greater Noida	200.59	90.45	291.04	385.63	11.57	<b>397.20</b>	-106.16		8173	8052	121
	Meerut sports city	Meerut	56.81	343.28	400.09	213.53	6.47	<b>222.00</b>	178.09		1795	1137	658
	Green village Meerut	Meerut	33.59	339.10	372.69	199.67	5.99	<b>205.66</b>	167.03		2115	1440	675
<b>Total B</b>			<b>743.02</b>	<b>1,817.47</b>	<b>2,551.49</b>	<b>2,284.26</b>	<b>68.53</b>	<b>2,352.79</b>	<b>198.70</b>	<b>39%</b>	<b>19559</b>	<b>17685</b>	<b>1874</b>

Phase-3	Hilltown**	Gurugram	295.04	2,235.82	2,530.86	1,981.45	59.44	<b>2,040.89</b>	489.97		1950	1484	466
	Araveille**	Gurugram	73.38	7.29	80.67	70.84	2.13	<b>72.97</b>	7.70		618	525	93
	Rivercrest	Rudrapur	44.53	416.39	460.92	25.52	0.77	<b>26.29</b>	434.63		1397	340	1057
	Doon square	Dehradun	25.88	99.29	125.17	32.44	0.97	<b>33.41</b>	91.76		608	428	180
	Micasa	Bangalore	7.89	0.70	8.59	9.58	0.29	<b>9.87</b>	-1.28		200	199	1
	<b>Total C</b>		<b>446.72</b>	<b>2,759.49</b>	<b>3,206.21</b>	<b>2,119.83</b>	<b>63.59</b>	<b>2,183.42</b>	<b>1,022.79</b>	<b>9%</b>	<b>4773</b>	<b>2976</b>	<b>1797</b>
	<b>GRAND TOTAL (A + B + C)</b>		<b>1890.33</b>	<b>14,197.22</b>	<b>16,087.55</b>	<b>9,201.97</b>	<b>276.06</b>	<b>9,478.03</b>	<b>6,609.52</b>	<b>100%</b>	<b>50356</b>	<b>40316</b>	<b>10040</b>

59. In these Appeals, I.A. No. 8178/2024 & I.A. No. 8179/2024 have been filed containing proposal made by the Promoters for 5 specific Projects, namely; Araville, Micasa, Green Village Meerut, Meerut Sports City & Rivercrest. These 5 Projects have been proposed with Co-Developers who have to infuse total INR 85 Crores in all the 5 Projects and as per the proposal of Promoters, timeline for completion of Araville is 18 months, Micasa is 12 months, Green Village Meerut is 12 to 24 months, Meerut Sports City is 12 to 24 months and Rivercrest is 12 months.

60. Learned Counsel for the Promoters have pleaded that above Projects be permitted to be completed by the Co-Developers as identified by the Promoters, who are giving a lesser timeline for completion of the Project and proposal contemplate settling the claims of financial institutions and charge holders which are Indiabulls and Acre. Claim admitted to the tune of Indiabull is Rs.19.66 Crores and Acre is 151 Crores.

61. Learned Counsel for the NBCC submits that NBCC has examined all Projects by internal teams on the basis of materials and data provided by the IRP, and as per Annexure B to the IA there are several Projects who may have surplus funds and several Projects which are in deficit. Out of 5 Projects which are proposed by Promoter, 4 Projects are Surplus Project. It is submitted by Learned Counsel for the NBCC that in view of the revised proposal submitted by the NBCC dated 11.11.2024, now NBCC proposes to take all 16 Projects simultaneously and the earlier proposal given in IA 6557/2024 to take the construction in project wise in Phase 1, Phase 2

and Phase 3 has been given up. In the revised proposal dated 11.11.2024, there is a categorical statement that timelines on 12 to 36 Months applies to the simultaneous completion of all 17 Projects. Para 7 of the revised proposal of the NBCC is as follows:

*“7. That in response to the objections raised, regarding the construction timelines proposed by NBCC, it is clarified that the 12 to 36 months timeline applies to the simultaneous completion of all 17 projects and should not be misconstrued as being applicable only to Phase-I of the development. The phases have been defined merely to prioritize and initiate construction activities in specific locations, primarily in Noida and Greater Noida, where surplus funds are anticipated. These funds will facilitate the mobilization of resources and the acceleration of construction at additional sites after a few months (approximately 3 to 6 months), contingent on the cash flow position and the revenue generated from the sale of unsold inventory.”*

62. As noted above, the majority of Homebuyers who have filed various Applications and objections have supported the proposal of NBCC provided the Projects are completed in timeline and no additional cost is imposed on the Homebuyers, and NBCC maintains the quality of construction. Other set of Homebuyers who have not supported the proposal of NBCC have contended that although they do not support the proposal, but they have no specific objection for Project to be given for construction to any entity provided timelines, quality of construction is maintained and Homebuyers are not put to any financial burden. NBCC is PSU, which has nation wise presence and most of the Projects as noted above are spread in Noida, Greater Noida, and Gurgaon. One Project, Rivercrest in Rudrapur, State of Uttarakhand and one Project Micasa in Bangalore. The Project Doon

Square has already been directed to be resolved and cannot be part of the Projects to be given.

63. Learned Counsel appearing for the IRP has also not shown his disagreement with the proposal of NBCC provided certain directions are issued for taking over the Projects simultaneously.

64. Learned Counsel for the NBCC submitted that out of the 16 Projects, some Projects may have surplus funds, whereas some Projects are in deficit, all Projects being Project of the Corporate Debtor required completion and surplus fund from one Project can be appropriated by decision of Court Committee, can be transferred and utilised in other Projects which may be requiring funds for completion. In event, Cash Surplus Projects are taken out from 16 Projects, completion of all Project shall become unviable. We are of the view that NBCC being a PSU, who is required to maintain quality of construction and maintain uniformity in quality of construction in all Projects, giving all Projects to be constructed under the NBCC shall ensure uniformity and the quality of construction in execution and implementation of the Projects. As noted above hiving out 5 Projects, out of 16 Projects, out of which 4 Projects are Cash Surplus shall not be beneficial for completion of all 16 Projects. We thus are of the considered opinion that NBCC be allowed to carry out construction in all 16 Projects as listed in Annexure A to the Application (except Doon Square Project).

Question No. I & II are answered accordingly.

**Question No. III**

65. As noted above, in the IA 6557 of 2024, NBCC has initially proposed construction of 17 Projects in 3 Phases; Phase 1, Phase 2 and Phase 3, but in the revised proposal dated 11.11.2024, NBCC has now clarified that all 17 (now 16) Projects shall be simultaneously completed, hence the apprehension that Projects of Phase 2 & Phase 3 shall not begin together has been taken care of. In revised proposal, tentative timelines for construction and completion have been given in Annexure D, which Annexure D of revised proposal is as follows:

<b>Sl No.</b>	<b>Project</b>	<b>Location</b>	<b>Tentative Time Lines for Construction Completion</b>
1	<i>Eco-village -2</i>	<i>Sec-16B, Greater Noida</i>	<i>18 to 36 Months</i>
2	<i>Romano</i>	<i>Sec-118, Noida</i>	<i>12 to 36 Months</i>
3	<i>Capetown</i>	<i>Sec-74, Noida</i>	<i>12 to 36 Months</i>
4	<i>Czar Suites</i>	<i>Greater Noida</i>	<i>18 to 36 Months</i>
5	<i>Eco- Village 3</i>	<i>Sec-16B, Greater Noida</i>	<i>12 to 36 Months</i>
6	<i>Sports village</i>	<i>Sec-10, Greater Noida</i>	<i>30 to 36 Months</i>
7	<i>Eco-citi</i>	<i>Sec-137, Noida</i>	<i>12 to 24 Months</i>
8	<i>Northeye</i>	<i>Sec-74, Noida</i>	<i>18 to 36 Months</i>
9	<i>Upcountry</i>	<i>Sec-17 A, Yamuna Expressway</i>	<i>24 to 36 Months</i>
10	<i>Eco- Village 1</i>	<i>Sec-1, Greater Noida</i>	<i>12 to 36 Months</i>
11	<i>Meerut sports city</i>	<i>Meerut</i>	<i>18 to 36 Months</i>
12	<i>Green village Meerut</i>	<i>Meerut</i>	<i>18 to 36 Months</i>
13	<i>Hilltown</i>	<i>Gurugram</i>	<i>24 to 36 Months</i>
14	<i>Araveille</i>	<i>Gurugram</i>	<i>12 to 30 Months</i>
15	<i>Rivercrest</i>	<i>Rudrapur</i>	<i>12 to 36 Months</i>
16	<i>Doon square</i>	<i>Dehradun</i>	<i>12 to 36 Months</i>
17	<i>Micasa</i>	<i>Bangalore</i>	<i>12 to 18 Months</i>

66. From Annexure D, the Project Doon Square is treated to be deleted, it having already directed to be resolved with the consent of all stakeholders. The timelines as indicated in an Annexure D to the revised proposal, thus has to be approved.

67. Learned Counsel for the Homebuyers and Promoters have expressed uncertainty and doubt about achievement of day zero. In IA 6557/2024, in Para 1.4(c)(ii) time period for completion has been mentioned, which is as follows:

*“(c) **Cost and Time Estimation:** Upon completion of the survey and due diligence exercise mentioned here-in-above estimated costs and time for completion of the Projects shall be ascertained.*

*(ii) Time period for completion: Tentative time period for completion of various projects shall vary from 12 to 36 months from "Day Zero".*

*Note:*

*“Day Zero in relation to each project means the date on which all the following conditions are fulfilled/completed:*

- I. Hon’ble NCLAT accepts the instant TOR submitted by NBCC and issues appropriate directions for implementation;*
- II. Completion of due-diligence or audit of such project, to the satisfaction of NBCC;*
- III. Obtaining requisite permits/approvals from statutory bodies in the name of Supertech, if any which are key for commencement of works as mentioned above;*
- IV. Award of work(s) by NBCC to contractors for projects;*
- V. Handover of peaceful and vacant possession of the project sites to NBCC, capable of commencement of work; and*



- VI. *Making available the requisite funds for commencing the work in relation to each phase project in the designated account in accordance with reports submitted by NBCC.”*

68. To obviate uncertainty and delay in achieving of day zero, we shall be issuing necessary directions to the statutory bodies for considering grant of requisite permit/ approvals. A timeline will also be fixed for obtaining requisite funds for commencing a work in relation to each Project. All necessary requirements for achieving day zero is to be completed before 31.03.2025, except award of works by NBCC to contractors for Project, which shall also be completed by 30.04.2025. We thus approve the timelines as indicated in Annexure D to revise proposal.

Question No. III is answered accordingly.

#### **Question No. IV**

69. In the term of reference which has been submitted by NBCC in Para 12 of revised proposal, NBCC has prayed for following:

*“12. Further, NBCC requires a RERA exemption in light of this situation in terms of Amrapali model, as funds shall necessarily be required to be transferred from one project to the other, to ensure completion of the projects.”*

70. Learned Counsel for the IRP submits that IRP does not support the proposal of NBCC for exemption from compliance of RERA Act 2016 and other statutory compliances.

71. Learned Sr. Counsel, Mr. Gopal Jain appearing for NBCC submitted that, if necessary, the NBCC shall file appropriate Application before the

Hon'ble Supreme Court for seeking any direction as maybe necessary. We are of the view that no exemption can be granted to the NBCC by this Tribunal with regard to compliances of statutory requirement as required by buildings Regulations or requirement as provided under the RERA Act, 2016 or other statutes governing the Projects in question. The construction and carrying on construction for Project has to be in accordance with the statutory requirement governing the Project in question and for obtaining appropriate approvals from statutory authorities, appropriate Application shall be made through IRP. Statutory authorities to whom such Applications are made, may consider such Application with urgency looking to the nature of Project. We may also refer to the Judgment of the Hon'ble Supreme Court in the matter of '**Bikram Chatterji & Ors.**' Vs. '**Union of India & Ors.**' reported in **(2019) 19 SCC 161**, where Hon'ble Supreme Court has laid down that public trust doctrine imposes on the State and its functionaries mandate to take affirmative action for effective management. In Paragraphs 73 to 76, following has been laid down:

***"In re : Public Trust Doctrine***

**73.** *The public trust doctrine imposes on the State and its functionaries a mandate to take affirmative action for effective management, and the citizens are empowered to question its ineffectiveness. The land of the farmers had been acquired for the purpose of housing and infrastructure needs by the State Government and handed over to the authorities concerned for construction. They are bound to ensure that builders act in accordance with the objective behind the acquisition of land and the conditions on which allotment had been made. It was a duty of officials concerned; they are not only enjoined to ensure that the rights of the homebuyers*

*are protected but also the interests of the authorities and bankers. The public authorities are duty-bound to observe that the leased property is not frittered away along with the money of the homebuyers. Affirmative action was clearly enjoined upon them not only under the statutory provisions of various enactments but also under the public trust doctrine that has evolved over the years by this Court.*

**74.** *In Noida Entrepreneurs Assn. v. NOIDA [Noida Entrepreneurs Assn. v. NOIDA, (2011) 6 SCC 508 : (2011) 2 SCC (Cri) 1015 : (2011) 2 SCC (L&S) 717], this Court has observed : (SCC pp. 524-25, paras 38 & 40-41)*

*“38. The State or the public authority which holds the property for the public or which has been assigned the duty of grant of largesse, etc. acts as a trustee and, therefore, has to act fairly and reasonably. Every holder of a public office by virtue of which he acts on behalf of the State or public body is ultimately accountable to the people in whom the sovereignty vests. As such, all powers so vested in him are meant to be exercised for public good and promoting the public interest. Every holder of a public office is a trustee.*

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*40. The public trust doctrine is a part of the law of the land. The doctrine has grown from Article 21 of the Constitution. In essence, the action/order of the State or State instrumentality would stand vitiated if it lacks bona fides, as it would only be a case of colourable exercise of power. The rule of law is the foundation of a democratic society. [Vide Erusian Equipment & Chemicals Ltd. v. State of W.B. [Erusian Equipment & Chemicals Ltd. v. State of W.B., (1975) 1 SCC 70], Ramana Dayaram Shetty v. International Airport Authority of India [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489], T.M. Hassan Rawther v. Kerala Financial Corpn. [T.M. Hassan Rawther v. Kerala Financial Corpn.,*

(1988) 1 SCC 166] , *Shrilekha Vidyarthi v. State of U.P.* [*Shrilekha Vidyarthi v. State of U.P.*, (1991) 1 SCC 212 : 1991 SCC (L&S) 742] ; and *MI Builders (P) Ltd. v. Radhey Shyam Sahu* [*MI Builders (P) Ltd. v. Radhey Shyam Sahu*, (1999) 6 SCC 464] .]

41. *Power vested by the State in a public authority should be viewed as a trust coupled with duty to be exercised in larger public and social interest. Power is to be exercised strictly adhering to the statutory provisions and fact-situation of a case. "Public authorities cannot play fast and loose with the powers vested in them." A decision taken in an arbitrary manner contradicts the principle of legitimate expectation. An authority is under a legal obligation to exercise the power reasonably and in good faith to effectuate the purpose for which power stood conferred. In this context, "in good faith" means "for legitimate reasons". It must be exercised bona fide for the purpose and for none other. [Vide Commr. of Police v. Gordhandas Bhanji [Commr. of Police v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] , Sirsi Municipality v. Cecelia Kom Francis Tellis [Sirsi Municipality v. Cecelia Kom Francis Tellis, (1973) 1 SCC 409 : 1973 SCC (L&S) 207] , State of Punjab v. Gurdial Singh [State of Punjab v. Gurdial Singh, (1980) 2 SCC 471] , Collector (DM) v. Raja Ram Jaiswal [Collector (DM) v. Raja Ram Jaiswal, (1985) 3 SCC 1] , Delhi Admn. v. Manohar Lal [Delhi Admn. v. Manohar Lal, (2002) 7 SCC 222 : 2002 SCC (Cri) 1670] and N.D. Jayal v. Union of India [N.D. Jayal v. Union of India, (2004) 9 SCC 362] .]*

**75.** *In Natural Resources Allocation, In re (Special Reference No. 1 of 2012) [Natural Resources Allocation, In re (Special Reference No. 1 of 2012), (2012) 10 SCC 1] , the Court observed : (SCC pp. 124-25, para 172)*

*"172. The judgment in LDA case [LDA v. M.K. Gupta, (1994) 1 SCC 243] ,*

*brings out the foundational principle of executive governance. The said foundational principle is based on the realisation that sovereignty vests in the people. The judgment, therefore, records that every limb of the constitutional machinery is obliged to be people oriented. The fundamental principle brought out by the judgment is, that a public authority exercising public power discharges a public duty, and therefore, has to subserve general welfare and common good. All power should be exercised for the sake of society. The issue which was the subject-matter of consideration, and has been noticed along with the citation, was decided by concluding that compensation shall be payable by the State (or its instrumentality) where inappropriate deprivation on account of improper exercise of discretion has resulted in a loss, compensation is payable by the State (or its instrumentality). But where the public functionary exercises his discretion capriciously, or for considerations which are mala fide, the public functionary himself must shoulder the burden of compensation held as payable. The reason for shifting the onus to the public functionary deserves notice. This Court felt, that when a court directs payment of damages or compensation against the State, the ultimate sufferer is the common man because it is taxpayers' money out of which damages and costs are paid."*

**76.** *In Assn. of Unified Tele Services Providers v. Union of India [Assn. of Unified Tele Services Providers v. Union of India, (2014) 6 SCC 110] , the Court observed : (SCC p. 120, para 4)*

*"4. We have indicated, the worth of spectrum to impress upon the fact that the State actions and actions of its agencies/instrumentalities/licensees must be for the public good to achieve the object for which it exists, the object being to serve public good by resorting to fair and reasonable methods. State is also bound to protect the resources for the enjoyment of general public rather than permit their use for purely*

*commercial purposes. Public trust doctrine, it is well established, puts an implicit embargo on the right of the State to transfer public properties to private party if such transfer affects public interest. Further, it mandates affirmative State action for effective management of natural resources and empowers the citizens to question ineffective management.”*

72. Hon’ble Supreme Court has further held that public authorities ought to have been vigilant to implement the statutory provisions. In the above case, Hon’ble Supreme Court has issued several directions so as to complete the Project. We are of the considered opinion that Noida, Greater Noida Yamuna Expressway Authority, and other statutory authorities concerned with the Project shall take all necessary actions and in compliance of statutory requirements including approvals which are necessary for Projects in question with sense of urgency or immediacy giving priority looking to the huge delay in completion of Project and miseries of Homebuyers.

We thus answer Question No. IV to the effect that NBCC proposal to grant waiver from provisions of UP RERA, and other statutory provisions cannot be granted.

#### **Question No. V**

73. The Homebuyers who have been allotted units in different Projects of the Supertech have made substantial payments to the builder as per the Builder Buyers Agreement. It has been submitted by the Learned Counsel for the NBCC that it is not proposed to put any additional burden on the

Homebuyers, except the recovery of the amount which is due from the concerned Homebuyers as per the Builder Buyers Agreement. The Projects in which the Homebuyers have been allotted units have been unduly delayed, which resulted due to default on the part of the Corporate Debtor, leading to initiation of Insolvency Resolution Process of the Corporate Debtor.

74. Learned Counsel for the Homebuyers have also flagged the issue of delay compensation which they were entitled as per the Builder Buyers Agreement on account of delay in completion. As a matter of fact, the builders could not complete the Project in the timeline and it was due to default, committed by builder that CIRP process commenced against the Corporate Debtor. The Orders passed in this Appeal from time to time have been towards commencing of the construction of all stalled Projects. The priority of the court is to complete the Projects, the court cannot be oblivious to the fact that construction cost has also increased by a passage of time of several years from the date when Homebuyers were required to be handed over the possession of their units. The completion of construction has to be from receivables from unsold, inventory, and the receivables from the Homebuyers and the funding which is to be arranged by the NBCC as indicated. As of date, the prayer of the Homebuyers to pay any delay compensation cannot be accepted. Completion of the Projects with enhanced construction cost, which is to be undertaken under the Orders of this Court shall be with no additional cost to be imposed on the Homebuyers, as has been submitted on behalf of the NBCC. We thus are

of the view that Homebuyers who have already been allotted units which allotment are subsisting cannot be subjected to any escalation of cost, except the dues which are required to be paid by them as per the Builder Buyers Agreement. Thus, the only recovery which can be affected from the Homebuyers is the recovery of unpaid dues, which were required to be paid by them as per the Builder Buyers Agreement.

Question No. V is answered accordingly.

### **Question No. VI**

75. The NBCC as well as Learned Counsel for the IRP has prayed for issuing various directions so as to commence and complete the construction of all 16 Projects. At this stage, we notice one of the main objections raised by land authorities, lenders, Banks and financial institutions, that NBCC in its proposal has submitted that payment of dues to the land authorities, Banks and financial institutions shall be made only after completion of the Project from surplus amount. In revised proposal in Para 9 x distribution of surplus, if any, NBCC has stated following:

*“9. Additionally, for the sake of clarity, the Applicant would like to submit the following in respect to the objections by various stakeholders:*

#### **x. Distribution of Surplus, if any:**

*As per Projected Cash Flows to be submitted by NBCC to the court committee, any surplus amount remaining after the completion of construction for all the projects, may be made available for the repayment of dues to various authorities, financial institutions and other relevant agencies. This surplus fund, once the construction phase is*



*concluded and all project-related expenses have been met, may be utilized to settle outstanding financial obligations. The specific allocation and distribution of these surplus funds will be determined in due course, as per the decisions of the Court-appointed Committee. The Court Committee will oversee the manner in which these funds are distributed to ensure that all stakeholders, including creditors and regulatory bodies, are paid in a fair and transparent manner, based on the agreed-upon priorities and guidelines.”*

76. Learned Counsel appearing for the land authorities/lenders and financial institutions are justified in their objection that repayment of dues of the land authorities/lenders cannot await till completion of the Projects that too in event of there being any surplus amount remaining after completion of construction. The land authorities whose huge dues are consequent to allotment of land to the Corporate Debtor where Projects were to be constructed and has commenced, dues of land authorities cannot be ignored or bypassed. Similarly, the banks and financial institutions who have given financial facilities to the Corporate Debtor which were used by Corporate Debtor in commencing of the Project have also to be taken care of. With regard to Projects which are covered by the Real Estate Regulation and Development Act, 2016, under Section 4(2)(l)D the 70% of the amount realised from the Real Estate Projects from the allottees from time to time shall be deposited in a separate account to be maintained in a scheduled Bank to cover cost of construction. Section 4(2)(l)D is as follows:

**“4. Application for registration of real estate projects.—(1) \* \* \***

(2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely—

\*\*\*

(l) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating—

(A)-(C) \*\*\*

(D) that seventy per cent of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

*Explanation.*—For the purpose of this clause, the term “scheduled bank” means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);”

77. All Projects which were registered and have to be now completed has to have a designated account in the scheduled Bank. Learned Counsel for the IRP has also submitted that a separate account for all Projects be maintained in which amount received from the allottees is to be deposited. The 70% of the receivables in a Project has necessarily to be spent for construction cost and land cost as per the statutory requirement. We, thus are of the view that repayment of land authorities, financial institutions, Banks has to be commenced from 30% balance amount from receivables and on approval of the Court Committee. For payment to land authorities, the 70% amount deposited in designated account can also be utilised. We, thus are of the view that repayment of land authorities, financial institutions, Banks cannot await till the completion of the Projects nor it can wait to be distributed from surplus after completion of the Project rather said repayment shall simultaneously begin along with the date and manner to be decided by the Apex Court Committee, which we shall be directing for constituting for carrying out the Project. We do not approve the proposal of the NBCC to make payment to various authorities, financial institutions from the surplus fund after completion of the Project rather repayment shall begin in the manner as decided by the Apex Court Committee.

78. Learned Counsel for the IRP has submitted that while the Apex Court Committee constituted to supervise the finances, approvals and other issues of all Projects and separate project wise Court Committee constituted to monitor the construction of the specific Projects. Learned

Counsel for the IRP has submitted a process note proposing formation of Apex Court Committee and formation of project wise Court Committee. In Clause (a) of the Process Note following has been recommended:

**“A. GOVERNANCE STRUCTURE AND DECISION-MAKING MECHANISM: FORMATION OF APEX COURT COMMITTEE AS WELL AS PROJECT-WISE COURT COMMITTEE**

*The table below sets out, in summary, the constituents of both the Apex Committee and ProjectWise Committee:*

<b>Apex Court Committee</b> (in line with the structure proposed by NBCC)	<b>Project-Wise Court Committee</b> (in line with the recommendations of lenders, land authorities as well as allottees)
<p>1) Two nominees on behalf of the Financial Institutions (may be the two largest comprising Financial Institutions);</p> <p>2) One nominee on behalf of NBCC;</p> <p>3) One expert from the real estate industry / Construction industry being an independent committee member to be appointed jointly by other Apex Court Committee members, and</p> <p>4) the Chairman (being the Interim Resolution Professional).</p>	<p>1) One (1) nominee of the Institutional Financial Creditor being the project lender/charge holder, if any</p> <p>2) One nominee of the Allottees of the project whose units are under construction</p> <p>3) One nominee of the land authority, if any</p> <p>4) One expert from the real estate industry being an independent committee member (as appointed by Apex Court committee), and;</p> <p>5) The Chairman (being the Interim Resolution Professional).</p>

*Note: Since the stakeholders such as land authorities as well as allottees interests are specifically aligned with their respective project, hence their participation is recommended only in project wise court committees.*

**1) FORMATION OF APEX COURT COMMITTEE:**

**i.** *On and from the date of the approval order passed by the Hon'ble Appellate Tribunal ("Approval Order"), an Apex Court Committee be formed for all the projects given to NBCC, in relation to completion of projects and utilization of funds by NBCC, and to protect and safeguard the interests of the stakeholders of the projects, comprising of persons as per aforesaid table.*

**ii.** *The names of the nominees of the Financial Institutions and NBCC shall be notified by the Financial Institutions to the Interim Resolution Professional within seven (7) days from the date of the Approval Order.*

**iii.** *One expert from the real estate industry/construction industry may be appointed within 1 (one) month from the date of Approval Order.*

**iv.** *The Apex Court Committee may take all decisions in relation to completion of all the projects including, but not limited to, the following:*

*a. Approval and allocation of overall interim funding which may be required for all the projects. Such funding shall be treated as interim finance as defined and specified under the provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC") and shall be paid in priority over others.*

*b. Approve the formation of a Special Purpose Vehicle ("SPV"), if required, for raising interim finance.*

*c. Approval of proposals and reports submitted by NBCC at various stages of work, approve estimated cost, projected costs, actual costs as applicable and make available required funds to NBCC for completion of the balance work and any other direction necessary for comprehensive completion of all the projects*

*d. Approval of costs for appointing any marketing or other agencies or other consultants common for all projects.*

*e. Approval of common expenses towards appointment of professionals, auditors, corporate employees and staff, legal, administrative and other head office expenses.*

*f. Allocation of funds from project to common pool for meeting common expenses.*

*g. Allocation of funds from surplus project to deficit project.*

*h. Distribution/allocation of surplus towards any dues of lenders, statutory authorities and other creditors as on Insolvency commencement date ("ICD") which remains unpaid from the respective project's cash flows*

*i. Allocation of funds for repayment of any common dues of the corporate debtor as on the insolvency commencement date, e.g. statutory dues, which cannot be allocated towards any specific project.*

*j. Any other action in relation to the Corporate Debtor which may be required to ensure the smooth operations of the projects*

**v.** *The Apex Court Committee shall supervise the implementation of the construction plan and shall be required and entitled to do all such acts, deeds, matters and things as may be necessary, desirable or expedient in order to implement the same.*

**vi.** *The quorum for any meeting of the Apex Court Committee shall require the attendance of the following:*

*a. The Chairman (being, the Interim Resolution Professional); and*

*b. At least one (1) nominee on behalf of the Financial Institutions.*

*c. The meeting may be called by giving 5 days' notice or any shorter notice as may be decided by the Apex court committee.*

**vii.** *The Apex Court Committee shall endeavour to take all decisions by unanimous consent. However, if unanimous consent is not achieved then decision shall be taken by a simple majority of members present and voting. In case e-voting is preferred, then the minutes may be circulated within 48 hours from the conclusion of the meeting and voting shall be concluded within 7 (seven) days of circulation of such minutes.*

**viii.** *The IRP shall conduct the day-to-day operations of the Company under the instructions of the Apex Court Committee and perform duties inter alia similar to that of a Resolution Professional under the CIRP and shall have powers similar to that of a Resolution Professional under the CIRP as specified under IBC. The IRP shall continue to have the same protections and exemptions available to a Resolution Professional under IBC.*

**ix.** *No accounts of the Corporate Debtor shall be operated without the signature of the IRP or his assigns. The construction of all projects shall continue with overall supervision of the IRP and shall have the right to engage accountants, legal advisors, and other professionals essential for the effective management of the Corporate Debtor's affairs.*

**x.** *The members of the Apex Court Committee shall not be liable for any action done in good faith in relation to supervision and management of the Company and shall not in any manner be implicated in, or in any manner adversely affected by, or have any liability in relation to any actions and/or omissions, during the implementation of the plan. Further, the nature of protection prescribed in Section 233 of the IBC will extend to the members of the Apex Court Committee for any action taken by them in good faith in terms of this order.*

**xi.** *The going concern costs of the Corporate Debtor and fees and costs of the IRP, along with his respective advisors in keeping the Corporate Debtor as a going concern, as approved by the Apex Court Committee, shall form part of CIRP costs and shall be paid in priority from the cash flows of the common funds of the corporate Debtor as treated during the CIRP.*

**xii.** *Upon the completion and handover of all the projects given to NBCC, any surplus funds remaining shall be allocated towards the repayment of unpaid dues of various stakeholders in proportion to their outstanding balances and the balance surplus, if any, may be submitted to the Hon'ble Appellate Tribunal with the final report. Upon the resolution of these matters, the Apex Court Committee may be dissolved."*

79. We accept the proposal of the IRP to constitute Apex Court Committee and for all the Projects given to the NBCC in relation to the completion of the Project and utilisation of funds by NBCC and to protect the safeguards and interest of the stakeholders of the Project and a project wise Court Committee for each Project for monitoring the NBCC and taking decision on various matters related to the Project. The constitution of both the Committees have also been suggested by the IRP. We approve the constitution of Apex Court Committee and project wise Committees as suggested by the IRP in the process note except one modification in project wise Court Committee that one representative of the NBCC has also to be part of the project wise Court Committee, thus, in addition to process as suggested in project wise Court Committee, one nominee of the NBCC shall be there with regard to each Project. The formation of the Apex Court Committee and project wise Court Committee with others suggestions given by the IRP as extracted above under the heading A are approved subject to any direction or modification which may be issued from time to time. The IRP under heading B direction to NBCC for implementation of construction proposal and mechanism for preparation of dues to stakeholders have made suggestions, which are as follows:



**“B. DIRECTIONS TO NBCC FOR IMPLEMENTATION OF CONSTRUCTION PROPOSAL AND MECHANISM FOR REPAYMENT OF DUES TO STAKEHOLDERS:**

*1) NBCC may be allowed to take over the role as PMC for the projects as per the TOR modified as per the Approval Order.*

*2) NBCC may obtain binding proposals for interim funding within 2 months from the date of Approval Order for the approval of Apex Court Committee.*

*3) NBCC may complete the survey and due diligence exercise mentioned in Para 1.4 (b) of NBCC TOR and prepare project wise monthly/ quarterly cash flows within 3 months from the date of Approval Order for the approval of Project-wise Court Committee.*

*4) For the purpose of preparation of cash flows, NBCC may propose utilization of 70% of project cash flows for the purpose of all expenses that need to be incurred for the purpose of completion of the project including NBCC fee, selling and marketing costs as well as the monitoring costs. In cases where 70% of projected cash flows are insufficient to complete the construction of the project, such additional percentage of cash flows may be allocated in priority which is necessary to ensure meeting of all projected expenses of the project subject to the approval of the project-wise court committee.*

*5) With respect to 30 percent of projected cash flows, or such other amount available for allocation after covering all project costs, the same may be allocated in the following order of priority: -*

*i. Meeting any corporate, legal and all other expenses which may not be allocated specific to the project in order to keep the Corporate Debtor as a going concern.*

*ii. Meeting any outstanding CIRP expenses pertaining to the project which is already incurred and not yet paid.*

*iii. Meeting the proportionate payment of principal dues of financial creditors, land authorities as well as other creditors of the project admitted as on the insolvency commencement date. (Such repayments*

*may start only after first 6 months of start of construction of the project by NBCC and subject to feasibility and viability of the same, keeping in mind the priority for completion of construction of project).*

**iv.** *Meeting any construction deficit of other projects as decided by Apex Court Committee*

**v.** *Any other purpose as decided by the project-wise court committee.*

**6)** *In the event, after completion of due diligence and detailed cash flow submission to the Project Wise Court Committee, NBCC expresses its inability to complete a particular project within the stipulated timelines or observe significant deviations from the projected surplus, then the Apex Court Committee shall have the right to take the decision to appoint any alternate PMC/Co-developer subject to approval of the Apex Court Committee and this Hon'ble Appellate Tribunal.*

**7)** *Once NBCC project wise cash flow is approved by the Project Wise Court Committee, NBCC shall be responsible for completion of projects within the stipulated timelines and as per the projected cash flows submitted to the project wise court committee. In case due to market factors or any other reasons, there are any deviation in the projected receivables or expenses, NBCC shall immediately update the Project Wise Court Committee by submitting a revised cash flow projections for the approval of the Apex Court Committee.*

**8)** *NBCC shall be required to submit monthly updates on construction and sales activities of the project as well as detailed cash flow for the perusal of the court committee as well as other stakeholders of the project as per para 9(vii) of NBCC TOR dated November 11, 2024."*

80. As noted above in some Projects, surplus receivables are reflected and some Project. Their receivables are in minus, we are of the view that Apex Court Committee may be empowered to take decision for transferring surplus amount from one Project to other Project after obtaining necessary

detail from concerned project wise Court Committee. We have already indicated that a project wise account be maintained in which all receivables from the concerned Project shall be deposited and the account can be debited only with the approval of the project wise Court Committee. All project wise accounts which are separately maintained shall be operated by with a joint signatory of the IRP and one of the representatives of the NBCC. As nominated by the NBCC a separate account shall also be maintained in the name of NBCC (I) Limited – Supertech unfinished Project as suggested by the NBCC, which account shall be operated and managed by NBCC through its authorised signatories with joint signatories of the IRP. All funding and finance received from the finance obtained by the NBCC for completion of the Project shall be credited in the above designated account, which account shall be operated under the decision of the Apex Court Committee by authorised signatory of the NBCC and the IRP. NBCC as suggested shall obtain necessary finance of Rs. 100 Crores and deposited in the said designated account to be spent as per decision of the Apex Court Committee for carrying out the Project. Suggestion as given under heading B by the IRP are approved subject to modification as indicated above. The suggestions with regard to under heading C which are as follows:

**“C. DIRECTIONS TO VARIOUS STAKEHOLDERS VIZ. ALLOTTEES, LENDERS, LAND AUTHORITIES, PROMOTERS**

***1) Directions for Allottees with respect to the applications mentioned in Schedule A:***

*i. The allottees may not be required to make incremental payments over and above the terms of the Builder Buyer Agreement. However, the allottees may be required to make the payments as per the revised payment schedule or projected cash flow submitted by NBCC and approved by the Apex Court Committee or Project-Wise Court Committee as the case may be.*

*ii. All and any claims of "assured return," "Subvention Scheme," or "Delay Penalty" or any other contracted return to any allottee of any Projects, whether accrued or payable only as on the insolvency commencement date, should be considered only after completion of all the liabilities and subject to the availability of Surplus and in proportion to such outstanding interest/penalty etc. of other stakeholders as determined by Project-Wise Court Committee or Apex Court Committee.*

*iii. Repayment of dues in relation to cancelled units may be decided by the project-wise court committee or Apex Court Committee as per para A(1)(h) read with para B(5)(iii) after submission of project-wise cash flows by NBCC.*

*iv. Homebuyers should not be allowed to voluntarily cancel their allotments and seek refunds of the monies paid by them.*

**2) Directions for financial institutions in respect of the applications mentioned in schedule A:**

*i. Once the Apex Court Committee has approved any decision with respect to terms of Interim funding or any other matter, the financial institution, who may have specific charge or security interest on any specific asset or cash flow of the corporate debtor, shall, immediately upon request, provide the No Objection Certificate or any other approvals or release of charge etc., which may be required in order to implement such decision of the Apex Court Committee.*

*ii. Once the Project-wise Court committee has approved any decision with respect to sale of inventory or utilization of cash flows or any other agenda as enumerated above, any specific lender or land owner or land authority or any other stakeholder who may have any charge or security interest in the asset or cash flows of the project shall, immediately upon request, provide the No Objection Certificate or any other approvals or release of charge etc., which may be required to implement the decision of the Project-wise Court Committee."*

81. IRP has also made suggestion under C 3 as direction for land authorities and other statutory bodies in respect to the Affidavit, which are as follows:

**“3) Directions for Land Authorities and other Statutory bodies in respect of the applications/affidavits mentioned in Schedule A:**

*i. The Hon'ble Appellate Tribunal may kindly direct the Land Authorities to extend full cooperation to NBCC for obtaining requisite approvals necessary for the timely completion of the project.*

*ii. NBCC may obtain requisite permits / approvals from statutory bodies in the name of Supertech Limited, if any which are key for commencement of works. In the event, due to delays or any other reason, the approvals have expired, then the respective authorities must be directed to provide the requisite approvals upon submission of necessary documents, as per the original terms of approvals expeditiously. In the event, the respective land authorities do not provide the necessary approvals within a period of one month or are unable to provide such approvals due to any changes in the laws under which these bodies are governed, then such layout plans, drawings etc in respect of already launched phases of the project may be deemed to be approved in the interest of completion of projects. The Hon'ble Supreme Court in the matter of Bikram Chatterji & Ors Vs Union of India, it was held that interest of thousands of allottees is paramount and will take precedence over dues to be recovered by NOIDA and GNIDA along with financial institutions.*

*iii. Grant necessary approvals, including Occupancy Certificate and/or Completion Certificate, upon completion of construction in each tower. Considering the varied range of progress in several towers in the project, tower-wise issuance of an Occupancy Certificate and Completion Certificate upon tower completion is prayed for without linking it to repayment of dues towards the land authorities as directed by the Hon'ble Supreme in the matter of Lotus 300 Association, wherein land authority being, NOIDA was directed to be pro active in documentation and complete the registration process expeditiously without any requirement of unwarranted documents from the allottees.”*

82. Directions for Promoters are captured in C 4, which are as follows:

***“4) Directions for Promoters in respect of the applications mentioned in Schedule A: The Hon'ble Appellate Tribunal may direct the Promoters to:***

*i. Extend full support for the execution and completion of pending project obligations.*

*ii. Act as observers and offer technical expertise wherever required to facilitate project completion in order to effectively implement the NBCC's ToR.”*

83. Directions 3 as suggested are approved, which shall with respect to all 16 Projects. Directions contained in C 3 are approved. We have noticed various objections made by the Homebuyers other Stakeholders, including Landowners regarding different Projects which have been noticed in Schedule A of the process note submitted by the IRP objection which have been tabulated in the Status Report submitted by the IRP dated 20.11.2024. The project wise Court Committee having been constituted, it shall be open for the concerned Stakeholders to submit its grievance before the project wise Court Committee, which Court Committee shall consider and take appropriate decision and communicate the same to the Stakeholders. Stakeholders are at liberty to bring decision of the project wise Court Committee for review before the Apex Court Committee. We, thus are of the view that consideration of various objections raised by the Stakeholders, including Homebuyers with respect to respective Projects need no consideration at this stage. We also noticed that NBCC in IA 6557/2024 in its terms of reference has proposed a fee of 8% as PMC fee. 8% on the actual cost of work and 1% for the sale value of the Project is marketing fee. We are of the view that 8% on the actual cost of work PMC

fee shall also include the marketing fee and no separate fee as marketing fee shall be chargeable by the NBCC.

84. **We also emphasise and remind the NBCC** that NBCC, although is taking the Project as Project Management Consultant, however, looking to the special features of the Project and the plight of Homebuyers who are waiting for their units for last several years, NBCC shall not treat its obligations only as a Project Management Consultant and shall go an extra mile to ensure that Project is completed and all unnecessary and extra cost be avoided due to limited resources of fund for completion of the Project. NBCC has to play role not only Project Management Consultant, but an entity who is entrusted to monitor completion of the entire Project. The term of reference as contained in IA 6557/2024 as modified by revised proposal dated 11.11.2024 shall stand approved subject to directions and modifications as contained in this Order.

85. We allow the IA 6557/2024 to undertake the 16 Projects as listed in Annexure A (except Doon Square). All necessary steps be undertaken by the NBCC. We dispose of IA 6557/2024, accordingly with following directions:

- (1) Under TOR, paragraph 1.4 (c) Note; the Condition-I is satisfied on passing of this order. Conditions II, II V, VI be completed by all concern on or before 31.03.2025. The NBCC shall start process of award of work as per Condition-IV, prior to

31.03.2025 and complete the award of contract within one month thereafter and construction shall commence w.e.f. 01.05.2025.

- (2) The statutory Authorities whose sanction is required for renewal/ grant of building plan and other necessary sanctions, registration/ renewal of Projects state, consider and communicate their decisions within 30 days of IRP making requisite applications.
- (3) The NBCC (I) Ltd. cannot be allowed exemption from complying statutory requirements under different statutes regulating building regulations and RERA Act 2016.
- (4) The Homebuyers/ commercial unit holders, who have already been allotted units by the Corporate Debtor, which allotments are subsisting, shall not be subjected to any escalation of cost, except the dues which are required to be paid by them as per Builder Buyers Agreements.
- (5) The purpose of NBCC for distribution of surplus as contained in Paragraph a(x) of TOR is not approved. Repayment of land Authorities, Banks and Financial Institutions shall simultaneously begin as per the date and manner decided by Apex Court Committee. The balance amount in a Project apart from 70% amount which is to be used for construction, may be used for repayment. The payment for land cost can also be



debited from 70% amount as per Section 4(2)(D) of RERA Act and as per the decision of the Apex Court Committee. Any proposal for repayment of land Authorities, Banks and Financial Institutions emanating from the Project Court Committee shall require approval of Apex Court Committee for implementation.

- (6) We direct for constitution of an Apex Court Committee and Project-wise Court Committee for each Project as detailed in Paragraph 78 of this order. The above Court Committees be constituted in the manner as noted in paragraph 78 and shall perform their functions as noted in paragraph 78. In the Project-wise Court Committee, NBCC (I) Ltd. shall also nominate one Member in each Project-wise Court Committee, who will be added in that Committee. After completion of constitution of Apex Court Committee and Project-wise Court Committee, IRP shall upload the constitution of Committees on the website as early as possible. The suggestions of IRP regarding constitution and functioning of above Committee is approved, subject to modification as noted above.
- (7) The suggestions of IRP under Heading “B. Directions to NBCC for Implementation of construction Proposal and Mechanism for repayment of dues of stakeholders” as noted above in paragraph 79 of the order are approved.

- (8) The Apex Court Committee is empowered to take decision for transferring surplus amount from one Project to other Project after obtaining necessary details from concerned Project-wise Court Committee.
- (9) Project-wise account be maintained in which all receivables from the concerned Project be deposited and account can be debited only with the approval of Project-wise Committee/ Apex Court Committee. The accounts shall be operated by joint signatories, i.e. IRP and one nominee of NBCC (I) Ltd.
- (10) A separate account, in the name of “NBCC (I) Ltd. – Supertech Unfinished Project” as suggested by NBCC shall be opened and operated by NBCC through its authorised signatories with joint signature of IRP. All funding and finance received by the NBCC/ Apex Court Committee for completion of the Project shall be credited in the above designated account. The above account shall be under direction and control of Apex Court Committee.
- (11) NBCC shall obtain necessary finance of Rs.100 crores as suggested and deposit in the above designated account to be spent as per decision of Apex Court Committee for carrying out the Project.
- (12) In reference to TOR as suggested by NBCC regarding its fee of 8% as PMC Fee, we are of the view that marketing fee of 1% as

suggested shall be included in 8% fee and no separate marketing fee shall be chargeable.

- (13) Directions sought for by IRP as suggested under Heading “C. Directions to various stakeholders, Lenders, Land Authorities, Promoters” are approved insofar as “C.1, C.2, C.3, C.4” are concerned (As noted in paragraphs 80, 81 and 82 of this order).
- (14) The TOR as contained in IA No.6557 of 2024 (NBCC (I) Ltd. Application) as modified by revised proposal dated 11.11.2024 stand approved, subject to directions and modifications as contained in this order.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

**NEW DELHI**

**12<sup>th</sup> December, 2024**

Ashwani/ Himanshu

ITEM NO.18+33

COURT NO.1

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Civil Appeal No. 2626/2025

APEX HEIGHTS PVT. LTD.

Appellant(s)

VERSUS

RAM KISHOR ARORA &amp; ANR.

Respondent(s)

(IA No. 44221/2025 - EX-PARTE STAY, IA No. 44223/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 44222/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

Diary No. 4505/2025 (XVII)

(FOR ADMISSION, IA No. 35999/2025 - EX-PARTE STAY, IA No. 36001/2025 - EXEMPTION FROM FILING O.T. and IA No. 35998/2025 - PERMISSION TO FILE APPEAL)

Civil Appeal No. 2240/2025 (XVII)

(FOR ADMISSION and IA No. 36569/2025 - EXEMPTION FROM FILING O.T.)

C.A. No. 2662/2025 (XVII)

(FOR ADMISSION, IA No. 45812/2025 - EX-PARTE STAY, IA No. 46263/2025 - INTERVENTION/IMPLEADMENT, IA No. 46983/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 45815/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 2598/2025 (XVII)

(IA No. 43704/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 21-02-2025 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE SANJAY KUMAR  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s) :

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Lokesh Malik, Adv.  
Mr. Shubham Jain, AOR  
Ms. Atika Chaturvedi, Adv.  
Mr./Ms. Keith Vergese, Adv.

Mr. Ramji Srinivasan, Sr. Adv.  
 Mr. Nikhil Mehndiratta, Adv.  
 Mr. Toyesh Tewari, Adv.  
 Mr. Arjun Bhatia, Adv.  
 M/s. Dua Associates, AOR

Mr. Gopal Jain, Sr. Adv.  
 Ms. Manisha Ambwani, AOR  
 Mr. Gudipati Gayatri Kashyap, Adv.  
 Ms. Apoorva Pandey, Adv.  
 Mr. Rose Verma, Adv.  
 Mr. Rahul Yadav, Adv.

Mr. Ranjit Kumar, Sr. Adv.  
 Mr. S. Niranjana Reddy, Sr. Adv.  
 Mr. Amar Gupta, Adv.  
 Mr. Divyam Agarwal, AOR  
 Mr. Anirudh Vats, Adv.  
 Mr. Akash Dikshit, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.  
 Mr. Shyam Divan, Sr. Adv.  
 Mr. Siddharth Bhatli, Adv.  
 Mr. Dinesh Kumar Garg, AOR  
 Mr. Abhishek Garg, Adv.  
 Ms. Lashita Dhingra, Adv.  
 Mr. Dhananjay Garg, Adv.  
 Ms. Anu Khuswaha, Adv.  
 Ms. Khyati Jain, Adv.

**For Respondent(s)/  
 Applicant(s):**

Dr. Abhishek Manu Singhvi, Sr. Adv.  
 Mr. Shyam Divan, Sr. Adv.  
 Mr. Siddharth Bhatli, Adv.  
 Mr. Dinesh Kumar Garg, AOR  
 Mr. Bhupendra Premi, Adv.  
 Mr. Abhishek Garg, Adv.  
 Ms. Lashita Dhingra, Adv.  
 Mr. Dhananjay Garg, Adv.  
 Ms. Anu Khuswaha, Adv.  
 Ms. Khyati Jain, Adv.

Mr. Gopal Jain, Sr. Adv.  
 Ms. Manisha Ambwani, AOR  
 Mr. Gudipati Gayatri Kashyap, Adv.  
 Ms. Apoorva Pandey, Adv.  
 Mr. Rose Verma, Adv.  
 Mr. Rahul Yadav, Adv.

Ms. Vibha Datta Makhija, Sr. Adv.

Ms. Prachi Johri, Adv./AOR  
Ms. Abhipsa Sahu, Adv.  
Mr. Praveen Gaur, Adv.  
Ms. Nehaol L.V., Adv.  
Mr. Karan Mangain, Adv.

Mr. Krishnamohan K., AOR

Mr. Mareesh Pravir Sahay, AOR  
Ms. Yaman Verma, Adv.  
Ms. Srishti Malik, Adv.  
Ms. Chitra Chanda, Adv.

M/s. Khaitan & Co., AOR

Mr. Rajiv Shakdher, Sr. Adv.  
Mr. Palash Singhai, AOR

Mr. Ravindra Kumar, Sr. Adv.  
Mr. Vipin Kumar Saxena, Adv.  
Mr. Shivam Saxena, Adv.  
Mr. Binay Kumar Das, Adv./AOR

UPON hearing the counsel, the Court made the following  
O R D E R

The learned Senior Advocate appearing for the applicant seeks permission to withdraw I.A. No. 46263/2025 seeking intervention/impleadment in Civil Appeal No. 2662/2025 as the said applicant has taken recourse to a separate statutory appeal.

In view of the statement made, I.A. No. 46263/2025 in Civil Appeal No. 2662/2025 is dismissed as withdrawn.

Permission to file the appeal(s) is granted.

Issue notice in all the appeals, returnable in the week commencing 01.04.2025.

We have given a shorter date, as a large number of flat buyers are affected by the impugned judgment.

Notice is accepted by the following counsel, present on behalf of the respective parties, as mentioned against their name. Hence,

notice need not be served on the said parties.

Name of counsel	Case Number	Respondent (R) number
Mr. Dinesh Kumar Garg	Civil Appeal No. 2626/2025	R-1
	Diary No. 4505/2025	R-1
	Civil Appeal No. 2240/2025	R-3
	Civil Appeal No. 2598/2025	R-1
Ms. Manisha Ambwani	Diary No. 4505/2025	R-3
	Civil Appeal No. 2240/2025	R-3
	Civil Appeal No. 2662/2025	R-3

Notice upon the unrepresented parties/respondents shall be served by all modes, including *dasti*, on steps being taken within five days.

The primary issue which will be examined is as to whether the National Company Law Appellate Tribunal<sup>1</sup> was right in awarding the work of construction etc. to NBCC (India) Ltd. without following the procedure prescribed under the Insolvency and Bankruptcy Code, 2016.<sup>2</sup>

We give liberty to the parties and third parties to file their written counter proposals on construction of the flats/buildings as an alternative to construction by NBCC (India) Ltd. The written counter proposals will specifically indicate as to whether the proposer(s) are connected to or associated with the ex-promoters or shareholders of the corporate debtor.

1 For short, "NCLAT."

2 For short, "IBC."

The written counter proposals will be submitted on or before 21.03.2025.

Copies of the respective written counter proposals will be furnished to the secured and financial creditors, the association(s)/representative(s) of flat buyers, the resolution professional/interim resolution professional, NBCC (India) Ltd. and the land-owning authorities.

The parties will also be entitled to file responses to the written counter proposals within a period of five days after the same are received.

Parties and proposers will be permitted to inspect the projects in question, including site inspection and documentation with the land-owning authorities. The authorities involved will permit the parties and proposers to do so, if they state that they want to give their written counter proposals.

Till the next date of hearing, the operation of the impugned judgment will remain stayed.

We make it clear that orders passed by New Okhla Industrial Development Authority, Greater NOIDA Industrial Development Authority and the Yamuna Expressway Industrial Development Authority cancelling any lease(s) shall also remain stayed.

The resolution professional/interim resolution professional will undertake duties and obligations as assigned to him in terms of the IBC, till the next date of hearing.

The orders passed by the adjudicating authority on the functioning of the corporate debtor through the Resolution



Professional during the Corporate Insolvency Resolution Process shall, accordingly, continue to operate.

We are informed that certain orders have been reserved. It will be open to the NCLAT/National Company Law Tribunal to pronounce the orders.

The following appeals will also be tagged and listed with the present batch of appeals: -

- Civil Appeal No. 2778/2025, titled "*Sachin Dev Ahlawat v. Union Bank of India & Ors.*"
- Civil Appeal No. 2648/2025, titled "*Amit Bathla v. Union Bank of India & Ors.*"
- Civil Appeal Diary No. 4654/2025, titled "*Vishal Ratan v. Union Bank of India & Ors.*"

(DEEPAK GUGLANI)  
AR-cum-PS

(R.S. NARAYANAN)  
ASSISTANT REGISTRAR

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**I.A. Nos. 307, 862, 927, 1082 of 2025**

**IN**

**Comp. App. (AT) (Ins) No. 406 of 2022**

**IN THE MATTER OF:**

**Ram Kishor Arora  
Suspended Director of Supertech Ltd.**

**...Appellant**

**Versus**

**Union Bank of India & Anr.**

**...Respondents**

**Present:**

**For Applicant: Mr. Karmveer, Mr. Kumar Abhishek, Mrs. Sulakshana Yadav and Mr. Ajay Kumar, Advocates in I.A. No. 862/2025.**

**Mr. Tanveer Mir Ahmed, Sr. Advocate with Mr. Karan Valecha, Mr. Chandra Shekhar and Mr. Yash Datt, Advocates in I.A. No. 927/2025.**

**For Appellant: Mr. Abhijeet Sinha Sr. Advocate with Mr. Siddharth Bhatli, Ms. Lashita Dhingra and Ms. Heena Kochar, Advocates.**

**For Respondents: Mr. Gopal Jain, Sr. Advocate with Ms. Gudipati G. Kashyap, Mr. Ranvijay Gohain and Mr. Aman Ahmed, Advocates for NBCC.**

**Mr. Sameer Jain, Mr. Suvigya Awasthy, Mr. Vivek Joshi, Mr. Deepesh Raj and Mr. Ankit Goel, Advocates for NOIDA.**

**ORDER**

**(18<sup>th</sup> March, 2025)**

**Ashok Bhushan, J.**

IA No.307 of 2025 has been filed by the Appellant- Ram Kishore Arora seeking various reliefs. IA No.862 of 2025 has been filed by M/s. Shree Shyam Vendors Association praying for certain directions. IA No.927 of

2025 has been filed by Bhanu Priya, an employee of Supertech Ltd. praying for certain reliefs. IA No.1082 of 2025 has been filed by IRP of Supertech Ltd. praying for various directions.

2. Before we notice the various prayers made in the applications, certain background facts giving rise to these applications need to be noticed:-

2.1. Company Appeal (AT) (Insolvency) No.406 of 2022 has been filed by Suspended Director of the Corporate Debtor challenging the order passed by the NCLT, New Delhi initiating CIRP process against Supertech Ltd. (Corporate Debtor) on an application filed under Section 7 by Union Bank of India. An interim order was passed in Company Appeal directing the IRP not to constitute the CoC. Corporate debtor, the real estate company had launched various real estate projects. The promoters of the corporate debtor contended before this Tribunal that with regard to ongoing projects, construction be permitted to carry on under the supervision of the IRP with the assistance of promoters, its officers and employees. Promoters had contended that they had infused funds as necessary for carrying out the construction. This Tribunal after hearing the parties issued direction on 10.06.2022 in the present appeal. Paragraph 25 of the order dated 10.06.2022 is as follows:-

*“25. In view of the foregoing discussions, we issue following Interim Directions:*

*i. The Interim Order dated 12<sup>th</sup> April, 2022 continuing as on date is modified to the extent that IRP may*

*constitute the CoC with regard to the Project Eco Village II only.*

*ii. After constitution of CoC of Eco Village II Project, the IRP shall proceed to complete the construction of the project with the assistance of the ex-management, its employees and workmen.*

*iii. With regard to the Eco Village II Project, the IRP shall proceed with the completion of the project, Resolution and shall be free to prepare Information Memorandum, issue Form G, invite Resolution Plan however no Resolution Plan be put for voting without the leave of the Court.*

*iv. All receivables with regard to the Eco Village II Project, shall be kept in the separate account, earmarked account and detail accounts of inflow and outflow shall be maintained by the IRP.*

*v. That all other projects of the Corporate Debtor apart from Eco Village II Project shall be kept as ongoing project. The Construction of all other projects shall continue with overall supervision of the IRP with the assistance of the ex-management and its employees and workmen.*

*vi. The promoter shall infuse the funds as arranged by it in different projects which shall be treated as Interim Finance regarding which detail account shall be maintained by the IRP.*

*vii. No account of Corporate Debtor shall be operated without the counter signature of the IRP. All expenses*

*and payments in different projects, shall be only with the approval of the IRP. All receivables in different projects shall be deposited in the account as per 'RERA' Guidelines and 70% of the amount shall be utilized for the construction purpose only. With regard to the disbursement of rest of the 30%, appropriate direction shall be issued subsequently after receiving the status report and after hearing all concerns.*

*viii. The IRP shall obtain approval of the CoC which is directed to be constituted for Eco Village II Project and incur all the expenses regarding the said projects and further incur the expenses accordingly.*

*ix. With regard to the expenses to other projects for which no CoC has been constituted, IRP is at liberty to submit a proposal for payment of various expenses including 'CIRP' expenses to this Tribunal.*

*x. The Promoters of the Corporate Debtor shall be at liberty to bear any expenses as requested by the IRP without in any manner utilizing any of the funds of the Corporate Debtor.*

*xi. Let the IRP submit a further Status Report within six weeks from today regarding Eco Village II Project and all other projects.*

*xii. The Parties are at liberty to file an I.A. for any direction/clarification in the above regard.*

*xiii. List this Appeal on 27<sup>th</sup> July, 2022."*

2.2. It is to be noted that against the order dated 10.06.2022, an appeal was filed in the Hon'ble Supreme Court in which appeal, an interim order came to be passed on 11.05.2023. By order dated 11.05.2023, the Hon'ble Supreme Court observed that the order dated 10.06.2022 passed by this Tribunal be implemented. After the order passed by the Hon'ble Supreme Court on 11.05.2023, the proceedings continued in the appeal, this Tribunal permitted the IRP and other stakeholders to come with the proposal for project-wise resolution. Before this Tribunal, NBCC filed an application IA No.6557 of 2024 expressing its willingness to undertake the construction of project of Supertech Ltd. This Tribunal after hearing the counsel for the IRP, NBCC as well as other stakeholders passed an order on 12.12.2024 allowing IA No.6557 of 2024.

2.3. IA No.307 of 2025 was filed by the Appellant on 07.01.2025. IA No.862 of 2025 was filed by M/s. Shree Shyam Vendors Association on 30.01.2025 whereas IA No.927 of 2025 has been filed by Bhanu Priya, an employee of Supertech Ltd. on 06.02.2025 and IA No.1082 of 2025 filed by the IRP on 09.02.2025. Against the order dated 12.12.2024, Civil Appeals have been filed by different stakeholders including the Appellant. Hon'ble Supreme Court passed an order on 21.02.2025 staying the operation of the order dated 12.12.2024. The above noted four applications were heard by this Tribunal and by an order dated 19.02.2025, orders were reserved in the above four applications. The Hon'ble Supreme Court in its interim order passed on 21.02.2025 while staying the operation of the order dated 12.12.2024 also made following observations:-

*“Till the next date of hearing, the operation of the impugned judgment will remain stayed.*

*We make it clear that orders passed by New Okhla Industrial Development Authority, Greater NOIDA Authority and the Yamuna Expressway Industrial Development Authority cancelling any lease(s) shall also remain stayed.*

*The resolution professional/interim resolution professional will undertake duties and obligations as assigned to him in terms of the IBC, till the next date of hearing.*

*The orders passed by the adjudicating authority on the functioning of the corporate debtor through the Resolution Professional during the Corporate Insolvency Resolution Process shall, accordingly, continue to operate.*

*We are informed that certain orders have been reserved. It will be open to the NCLAT/National Company Law Tribunal to pronounce the orders.”*

2.3. After noticing the above sequence of the events, we now proceed to consider the above applications.

### **IA No.307 of 2025**

3. IA No.307 of 2025 has been filed by the Appellant in which application following prayers has been made:-

*“(i) The present Application may kindly be allowed.*

*(ii) Direct the IRP to comply with Order dated 10.06.2022 till the time NBCC complies with the conditions imposed by the Hon'ble Court vide Order dated 12.12.2024.*

*(iii) Direct the IRP to Include the Appellant in all Communications with contractors, employees, and vendors, ensuring compliance with the Hon'ble Tribunal's order dated 12.12.2024 and facilitating effective supervision;*

*iv) Direct the IRP to comply with the Orders of the Hon'ble Tribunal, specifically regarding the continuation of work on the project sites and the maintenance of the Corporate Debtor's operational status;*

*(v) Direct the IRP to immediately clear and dispersed dues of all the employees, vendors and contractors who are actively working on site;*

*(vi) Pass any other interim reliefs as this Hon'ble Appellate Tribunal deems fit and proper in the facts and circumstances of the instant case.”*

4. We have heard Shri Abhijeet Sinha, Learned Senior Counsel for the Applicant and Shri Nakul Diwan, Learned Counsel for the IRP.

5. Shri Abhijeet Sinha, Learned Senior Counsel submits that under the order dated 12.12.2024, this Tribunal had directed the NBCC to undertake construction of 16 projects. There are other ongoing projects of the



corporate debtor. Apart from the above 16 projects, the order dated 10.06.2022 which was passed by this Tribunal with regard to carrying out construction of the projects of the corporate debtor and mechanism for construction still continues to operate and with regard to other 9 projects, the IRP was obliged to carry on the construction as per the mechanism which was operating as per the order dated 10.06.2022. It is submitted that **the IRP was also to take steps with regard to payments of employees' salary,** clearing dues of vendors and contractors ensuring construction continuity. **It is further contended that the appellant's involvement in the projects ought** to have been continued who was rendering valuable assistance to the IRP regarding construction of the projects. It is submitted that with respect to 9 completed projects, IRP along with applicant, promoter shall oversee these projects in accordance with the order dated 10.06.2022.

6. Counsel for the IRP submits that the IRP has to carry on construction with regard to projects of corporate debtor and after the order dated 12.12.2024, obstruction was creating in access to the project site by vendors due to which steps in pursuance of the order dated 12.12.2024 could not be taken. Allegations made by the appellant against the IRP are unfounded. IRP has been taking steps for payment of salary of the employees. Salary of December 2024 has been paid and with regard to January 2025 salary also has been processed. It is submitted that the salary due from September 2024 to November, 2024 shall be paid in three tranches before 31.05.2025. It is submitted that necessary direction be

issued by this Tribunal. IRP has filed separate application being IA No.1082 of 2025 seeking various directions which need to be considered.

7. By interim order passed by the Hon'ble Supreme Court on 21.02.2025, as noticed above, the order dated 12.12.2024 has already been stayed, hence, no steps need to be taken under the said order dated 12.12.2024. The Hon'ble Supreme Court also in its interim order dated 21.02.2025 has observed that the IRP will undertake duties and obligations as assigned to him in terms of the IBC till the next date of hearing. IRP is entrusted for carrying out the construction of the projects as per the order passed by this Tribunal as noticed above. IRP is the person who has to take necessary steps regarding the corporate debtor including steps for keeping the corporate debtor as a going concern. Order dated 12.12.2024 having been stayed by the Hon'ble Supreme Court, we are of the view that all parties are to act in accordance with the earlier order dated 10.06.2022 passed by this Tribunal till any further orders are passed by the Hon'ble Supreme Court. We, thus, are of the view that IA No.307 of 2025 filed by the Appellant need to be disposed of with following directions: -

- (i) All projects of the corporate debtor are under the supervision of the IRP. It is the IRP who has to take steps regarding carrying out the construction and taking all necessary steps with the projects of the corporate debtor with the assistance of the appellant, its officers and employees.

8. The order dated 10.06.2022 passed by this Tribunal still being in operation, all concerned including the IRP has to take steps in accordance with the directions till any further orders **are passed by the Hon'ble Supreme Court**. With regard to salary of employees and those of vendors, there are separate applications filed in which we shall notice the submissions and necessary direction while considering the said applications.

IA No.307 of 2025 is disposed of accordingly.

**IA No.862 of 2025**

9. This application has been filed by Shree Shyam Vendors Association which claim to be association of operational creditors/vendors of the corporate debtor. The applicant grievance is that the dues of several vendors/ operational creditors who have supplied the materials and rendered services after commencement of the CIRP is still outstanding. The vendors/operational creditors have supplied materials including essential tools, equipments, plant and machinery which are still lying in the project site. Plant and machinery and tools are not being allowed to be removed by **the IRP from the site. Members of the appellant's association have played a** critical role in providing essential supplies and services to the corporate debtor. These services including construction works, tile and plaster work, finishing work, firefighting, electricity, plumbing, painting, raw material procurement and operational support etc. IRP has failed to effectively

discharge their statutory duties. Applicant in IA has prayed for following reliefs:-

*“A. To admit and allow the present I.A. and pass supplemental order of the order dated 12.12.2024 or modify the order dated 12.12.2024 passed by the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi in I.A. No. 6557 of 2024 in Company Appeal (AT) (Ins) No. 406 of 2022 with respect to consideration of the payment of the post-CIRP costs of the operational creditors/vendors in compliance with the provisions under Section 5(13) and Section 30(2) of the Insolvency and Bankruptcy Code, 2016; Seeking for direction.*

*B. To admit and allow the present I.A. and pass supplemental order of the order dated 12.12.2024 or modify the order dated 12.12.2024 with respect to consideration of payment of the pre-CIRP claims of the operational creditors/vendors in para 77 of the order dated 12.12.2024(70%-30%) passed by the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi in I.A. No. 6557 of 2024 in Company Appeal (AT) (Ins) No. 406 of 2022; and*

*C. To admit and allow the present I.A. and pass the supplemental order of the order dated 12.12.2024 or modify the order dated 12.12.2024 with respect to inclusion of operational creditor's representatives in Apex Court Committee and Project-wise Court Committees in para 78 of the order dated 12.12.2024 passed by the Hon'ble National Company Law Appellate Tribunal, Principal Bench,*

*New Delhi in I.A. No. 6557 of 2024 in Company Appeal (AT) (Ins) No. 406 of 2022; and*

*D. To admit and allow the present I.A. and issue necessary directions to the IRP to allow removal of construction materials lying on the site, inclusive of perishable items cement, chemicals etc. and iron, tools, equipment, plants & machineries which belong to the operational creditors/vendors; and*

*E. To admit and allow the present I.A. and issue necessary directions to the IRP to certify all running bills submitted by the operational creditors, including those incurred during the Corporate Insolvency Resolution Process (CIRP); and*

*F. To admit and allow the present I.A. and issue necessary directions to the Interim Resolution Professional (IRP) to make payment of all idle charges and rental charges incurred by the operational creditors due to the prolonged holding of tools, equipment, plant and machinery at the project sites and treating these expenses as part of the Corporate Insolvency Resolution Process (CIRP) costs under the provisions of the Insolvency and Bankruptcy Code, 2016; and*

*G. To admit and allow the present I.A. and issue necessary directions to the Interim Resolution Professional (IRP) to release the payment of the outstanding amount pertaining to CIRP period being CIRP Costs on the basis of Proforma Invoice(PI) of the operational creditors/vendors and tax invoice to be*

*submitted by the operational creditors/vendors at the time of receipt of the payment.*

*H. Pass any other order(s) that this Hon'ble Court deems fit and proper in the interest of the justice."*

10. IRP has filed the reply to the IA. Rejoinder affidavit has also been filed by the Applicant.

11. We have heard Shri Krishnendu Datta, Learned Senior Counsel for the applicant and Shri Nakul Diwan, Learned Counsel for the IRP.

12. Shri Krishnendu Datta, Learned Senior Counsel for the Applicant submits that the Applicants who are vendors/ operational creditors have been playing an essential role in running the corporate debtor as a going concern after commencement of the CIRP. Their payments have not yet been cleared. It is submitted that the Applicant is not seeking any direction for the pre-CIRP period outstanding dues, however, Applicants are entitled for receiving their outstanding dues subsequent to the CIRP period. It is further submitted that the bills have been submitted by the vendors/ operational creditors. Although some bills have been verified but payments are awaited. It is submitted that several bills have not been verified under the mechanism which is current till 12.12.2024.

13. Counsel for the IRP submits that certain prayers in the application are in essence of modification of the order dated 12.12.2024 which cannot be entertained. It is submitted that all vendors/ operational creditors have

not submitted their bills. Apprehension of the applicant that for verification of the bills, some new mechanism has been availed by the IRP is incorrect. The bills which have been submitted prior to 12.12.2024 shall be assessed as per the mechanism which was current. IRP has engaged a Project Management Consultant (PMC) to verify the bills submitted by vendors. In paragraph 34 of the reply filed by the IRP, the process as undertaken by the IRP is as follows:-

*“34. In relation to the above process, it is after taking charge as the IRP of the Corporate Debtor, the Respondent No.1 had engaged a project management consultant to verify the bills submitted by the vendors. The process followed for such verification was as follows:*

*a. All work carried out by the vendors was after issuance of a work order by the Corporate Debtor signed by the project director/site team to the concerned vendor.*

*b. After completion of the work, the vendor would raise a bill and submit it to the project director, who would then confirm/validate the work done as per the work order issued by the Corporate Debtor.*

*c. After the validation of the bill, the finance controller of the Corporate Debtor will verify the invoice and create a note for approval, which is sent to various departments along with all the supporting documents. This note for approval along with supporting documents will then simultaneously be*

*submitted to the project management consultant for further verification, after which the said verified bill is recorded in the SAP system of the Corporate Debtor. Once recorded in the SAP software, the bill is sent for final verification and payment.*

*d. On the above-mentioned process, there have been delays/ non-submission/non-verification at multiple levels owing to which the bills have not been verified/ being reflected in SAP and reconciliation etc. is pending.”*

14. It is submitted that there have been delays in non-submission or non-verification due to which payments are outstanding. Till the bills are verified by PMC with co-operation of the vendors/operational creditors who have to co-operate in the measurement, bills cannot be cleared. It is submitted that the IRP is taking steps towards payment of the vendors/operational creditors after verification of the bills. It is contended by the IRP that the payments of vendors cannot be made at one go and payments has to be made in a gradual manner as permitted by financial condition of the corporate debtor. Contractors who have not submitted their bills should submit their bills within two weeks and in the verification process, the vendors/operational creditors as well as the employees of the corporate debtor to render all co-operations to complete the verification. IRP be given access to all necessary datas. Vendors/contractors to co-operate with IRP team and facilitate inspection verification process, contractors to provide item-wise list of assets that they claim to be available on the project site along with adequate proof. Till the verification and inspection is not



completed, no vendors or contractors shall be permitted to remove/ dispose of any machinery assets from the project site. Vendors/operational creditors have also claimed that the corporate debtor has allotted certain units in lieu of their payments; details of units allotted by the corporate debtor may be provided to take a call with regard to adjustment of their claims, if any.

15. We have considered the submissions of the counsel for the Applicant as well as the counsel for the IRP.

16. Under the order dated 10.06.2022, the projects of the corporate debtor are being run as a going concern under the supervision of the IRP. The construction has been carried out with the co-operation/assistance rendered by the promoters and their staff and employees. As observed above, the order dated 10.06.2022 being still in operation, all have to act in accordance with the said direction. Any expenses incurred in carrying out the construction, supply of materials and services during the CIRP period payment of CIRP costs has to be paid in priority. It is the case of the parties that earlier the vendors were being paid for their supplies/services which process has halted after 12.12.2024 order. As noted above, order dated **12.12.2024 having been stayed by the Hon'ble Supreme Court on 25.02.2025**, we are of the view that the process of payments to the vendors, suppliers, operational creditors which was being undertaken by the IRP should be continued in the same manner and process. We clarify that for verification of the bills, the same process shall be followed which was being carried on till the order dated 12.12.2024 passed. Counsel for the IRP has

categorically stated that no new mechanism for verification of the bills is being adopted nor shall be implemented and verification of the bills shall be carried out as per the process which was being adopted. In view of the submissions of the counsel for the parties and suggestions given by the parties, we dispose of IA No.862 of 2025 with following directions:-

- (i) The IRP shall verify/finalise the bills received from vendors/operational creditors as per the process which was being adopted prior to passing of the order dated 12.12.2024.
- (ii) Vendors/operational creditors who have not submitted their bills may submit their bills within period of two weeks from today so as to begin the process of verification at an early date.
- (iii) IRP who is carrying his duties in accordance with the powers **given under the IBC as well as the directions of the Hon'ble Supreme Court in order dated 25.02.2025**, shall commence payment of bills which have been verified in a phased manner.
- (iv) The vendors/operational creditors shall render all assistance to the IRP and IRP team for purposes of verification.
- (v) The vendors/operational creditors shall not be entitled to remove any material plant and machinery from the site till verification of the materials plant and machinery is completed and inventories are prepared. With regard to removal of the materials plant and machinery on the different project site of the corporate debtor, vendors/operational creditors have to act in accordance with the directions issued by the IRP and IRP team.

(vi) IRP shall take steps towards payment of dues of the vendors/operational creditors as per the financials available in accordance with law.

IA No.862 of 2025 is disposed of accordingly.

**IA No.927 of 2025**

17. This application has been filed by one Bhanu Priya claiming to be an employee of the corporate debtor who has been paid regular salary. From September 2024, no payments were made. It is contended that it is the obligation of the IRP who is discharging duties under Section 17 of the IBC to manage the affairs of the corporate debtor and make payment of salary.

Following prayers have been made in the application:-

*“a) To direct the IRP to pay the Applicant the pending salaries from September 2024 and ensure timely disbursal of future payments and Issue necessary directions/orders to protect the Applicant from any form of coercion, intimidation, or physical harm by the IPR or his agents.*

*b) Recommend Insolvency and Bankruptcy Board of India to look into the conduct and take appropriate actions against the RP of Supertech Ltd.*

*c) Pass any other further order as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the instant case.”*

18. We have heard Shri Tanveer Mir Ahmed, Learned Senior Counsel with Shri Karan Valecha, Learned Counsel for the Applicant and Shri Nakul Diwan, Learned Counsel for the IRP.

19. IA No.927 of 2025 came to be heard before this Tribunal on 10.02.2022 on which date, following order was passed:-

*“1. This Application has been filed by an employee seeking a direction for payment of salary.*

*2. It is submitted by the Counsel for the Appellant that salary is due from the month of September 2024 to the employees.*

*3. Learned Sr. Counsel Mr. Diwan submits that with regard to salary for December, instructions have been issued for bank transfer and for January salaries, the processing is being made. He has submitted that he has taken the matter to the ACC and the certain recommendations has been made.*

*4. Appellant objects that the matter of salary need not be taken to the ACC.*

*5. In view of the aforesaid, we direct the salary for the month of December to be released within one week from today i.e., by 17.02.2024 and with regard to salary for January as submitted by IRP the processing may be done and as early as possible the salary for January may also be released.*

*6. Rejoinder to the Application may also be filed before the date fixed.*

*7. It goes without saying that personal head, the HR Mr. Arun Mathur may extend his cooperation and ensure that salary may be released within a week.*

*List this Application on 18<sup>th</sup> February, 2025 at 02:00 PM."*

20. Counsel for the IRP submits that in pursuance of the order passed by this Tribunal, salary for December 2024 has been paid to the employees of the corporate debtor and salary for January, 2025 has also been processed. It is submitted that the balance salary from September 2024 to November 2024 shall be paid in three tranches up to 31.05.2025.

21. IRP has also filed a reply to the IA. Counsel for the IRP submits that co-operation/assistance of employees of the corporate debtor is required for preparing the salary payments advice and invoices. The funds of the corporate debtor have been depleted. There were no sufficient funds to pay the salary of the employees, hence, some delay has been caused. However, IRP is taking steps to pay all outstanding dues.

22. We have considered the submissions of the counsel for the parties and perused the record.

23. We have noticed the submissions of the IRP that salary for December 2024 has been paid and salary for the month of January 2025 has also been processed and was to be paid in February itself. With regard to outstanding salary for September, October and November, 2024, IRP has stated that the said outstanding salary be paid in three tranches up to

31.05.2025. IRP being the authority to run the corporate debtor as a going concern has to take all steps for meeting necessary expenses including salary. By recording the statement of IRP that outstanding salary for September, October and November 2024 shall be paid by 31.05.2025 in three tranches, we dispose of the application. All outstanding salary shall be paid by 31.05.2025. The employees and officers of the corporate debtor shall render all necessary assistance to the IRP with respect to preparation of salary, bills, invoices etc.

IA No.972 of 2025 is disposed of accordingly.

**IA No.1082 of 2025**

24. This is an application filed by the IRP seeking various directions. The application was filed by the IRP on 11.02.2025 as noticed. In the application, the applicant has given the details of events which took place after the order dated 12.12.2024. Applicant has pleaded non-cooperation or obstruction from the vendors/ operational creditors as well as the promoters of the corporate debtor in inspection of projects/ taking possession of the projects for carrying out the order dated 12.12.2024. In the application, applicant has prayed following reliefs:-

*“i) Direct the Respondent No.1 to desist from interference with the actions of the Applicant and the Apex Court Committee constituted by this Hon'ble Tribunal vide its order dated 12 December 2024 and provide all requisite documents, information and infrastructural support sought by the Applicant on*

*behalf of the ACC to implement the order dated 12 December 2024 passed by this Hon'ble Tribunal.*

*(ii) Direct the Respondent No.3 and its members to immediately vacate the projects occupied by them and ensure peaceful handover of the projects of the Corporate Debtor covered under the order dated 12 December 2024 to the Respondent No.4, in order to ensure compliance with the directions contained in the order vis-à-vis achievement of Day Zero conditions set out thereunder.*

*(iii) Direct the Respondent No.2 to provide suitable assistance to the Applicant in the discharge of its duties as the IRP of the Corporate Debtor by providing requisite security arrangements to the Applicant, ACC and PWCC members, as well as for the project sites of the Corporate Debtor as and when requested to ensure compliance with the NBCC Approval Order and the timelines contemplated thereunder.*

*(iv) Pass any such further or other orders/directions as this Hon'ble Appellate Tribunal deems fit and proper in the facts and circumstances of the case.”*

25. We have already noticed that the operation of the order passed by this Tribunal dated 12.12.2024 has been stayed by the Hon'ble Supreme Court vide its order dated 25.02.2025. As on date, there is no question of taking steps in compliance of the order dated 12.12.2024. The reliefs which are claimed in the application is principally with respect to compliance of the

order dated 12.12.2024. We, thus, are of the view that as on date, no order needs to be passed in IA No.1082 of 2025. Consideration of IA No.1082 of 2025 is deferred with liberty to the IRP making a request for fixation of the date in IA.

26. IA Nos.307, 862 & 927 of 2025 are disposed off. Hearing of IA No.1082 of 2025 is deferred.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

**New Delhi**  
Anjali



**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Advocates in I.A. No. 2763 of 2023 in CA (AT) (Ins) No. 406 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi, Ms. Jhanvi Vashisht, Advocates in I.A. No. 4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Ms. Raghwi Rawat, Mr. Kunal Arora, Advocates for R-1 (UBI).

Mr. Amish Tandon, Ms. Anushree K., Advocates for IFCI Ltd. in I.A. No. 3281 of 2022.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Raghav Dembla, Advocates for Indiabulls.

Mr. Rohan Thawani, Mr. Pratul Pratap Singh, Advocates in I.A. No. 3330 & 3331 of 2023.

Mr. Sumesh Dhawan, Mr. Nikhil Mehndiratta, Advocates for Intervenor/ Assets Care and Reconstruction Enterprise Ltd. in I.A. No. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate with Mr. Somdutta Bhattacharya, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Sathvik Chandrasekar, Advocates for R-2/IRP, along with Mr. Hitesh Goel, IRP in person.

Mr. Siddharth Sunil, Advocate in I.A. No. 2717, 4213 of 2022.

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Khyati Jain, Advocates

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L& T Finance Ltd.

Mr. Sourav Roy, Mr. Prabudh Singh, Mr. Kaushal Sharma, Mr. Vasudev Singh, Advocates for Noida Authority in I.A. No. 3206 of 2022.

Mr. Shaurya Krishna, Mr. Prakash Tiwari, Mr. Amit Garg, Advocates in I. A. No. 4713 of 2022.

Ms. Kanika Sachdeva, Mr. Pawan Shree Agrawal, Advocates for Homebuyers.

### **ORDER**

**27.07.2023:** Heard Mr. Nakul Dewan, Learned Senior Counsel appearing for the IRP. Status Report on behalf of Resolution Professional has been submitted in compliance of the order dated 05.07.2023. In the order dated 05.07.2023, we have noticed the submissions that due diligence process had already begun. In the Status Report Learned IRP had submitted that with regard to due diligence steps have taken and the said due diligence shall be completed within 4-5 weeks and Mr. Dewan submits that by 31.08.2023 the process regarding due diligence should be completed and within two weeks the term sheet of the interim finance shall be finalised signed and submitted in the Court.

2. Learned Counsel appearing for the Union Bank and other Learned Counsels for the Financial Creditor submitted that the process for obtaining interim finance is taking a long time by which the interest of the lenders are being suffering and there are no light with regard to dues of the lenders.

3. We are of the view that the process of interim finance has to be given a finalization and as suggested by Learned Counsel for the IRP we fixed 31.08.2023 as a dead line for completing the all process of due diligence and submission of the term sheet of the interim finance within two weeks thereafter in the Court after completing all formalities.

4. Learned Counsel for the IRP has also referred to the I.A. No. 2785 of 2023 which was noticed in our order dated 05.07.2023 in paragraph 9, 10. In the application I.A. No. 2785 of 2023 following prayers have been made:

- a) Pass appropriate directions upon the Promoters of the Corporate Debtor, being the Appellant herein, directing them to arrange interim finance to the tune of Rs. 50,00,00,000/- (Rupees Fifty Crore only) to complete the safety related activities, including but not limited to obtain requisite Fire NOCs/Occupancy Certificates and other safety related works, as indicated in the Technical Assessment Report of AECOM, as referred to at paragraph 15 hereinabove;*
- b) Pass appropriate directions upon the Promoters of the Corporate Debtor, being the Appellant herein, directing them to share a comprehensive action plan for the safety related aspects of each of the Non EV-II Projects and assist in completion of the safety related works on each of the Non EV-II Projects;*
- c) Pass appropriate directions, allowing the Applicant to utilise the funds or part thereof available in the 30% RERA designated accounts of the Non EV-II Projects of the Corporate Debtor, to complete the safety related works at the Non EV-II projects;*
- d) Pass any other order as this Hon'ble Appellate Tribunal may deem fit and proper.*

5. Learned Counsel submits that in the large number of projects which are part of the Corporate Debtor project provisions of fire safety are lacking either

incomplete or not at all taken care of. It is submitted that in some of the units peoples are also residing without there being any provisions of fire safety. It is further submitted that in some of the project units there are not even a occupancy certificate.

6. Submission of the Learned Counsel for the IRP is that IRP being now at the helm of the affairs it is the responsibility of the IRP to point out to the Court about the imminent danger of the people living in the units without there being in fire safety arrangements.

7. There cannot be two opinion that requirement of fire safety has to be put in place in all projects to ensure the safety of people who are residing in the units or who are yet to come in the units to reside their after obtaining their occupancy certificate and after completion of the other necessary requirements. The question which as on date has been raised by the applicant is the requirement of finance. At present according to the counsel for the IRP there are not sufficient funds available with the Corporate Debtor to make all arrangements regarding fire safety in the projects.

8. Learned Counsel for the IRP submits that the two accounts of the Corporate Debtor i.e. of 70% and 30% are open under the statutory requirement 70% account is being utilised for the construction only and 30% amount is kept reserved for lenders and other purpose. He submits that as on date certain amount is available in 30% account which temporarily be permitted to be utilised with the conditions that amount shall be replenished in the said account. The said equal amount shall be replenished in the account as

soon as possible. With regard to interim finance finalisation has to take place by 31.08.2023 and term sheet to be filed within two weeks thereafter. Learned Counsel for the IRP submits that as on date to begin with the taking steps for the fire safety an amount of Rs. 5 crores may be required.

9. In the facts of the present case permit the IRP to appropriate the amount of Rs. 2.5 crores to begin with all fire safety requirement and the issue with regard to further amount shall be considered on the next date. The amount which is appropriated shall be replenished in the said account as soon as possible. With regard to fire safety expenses IRP shall maintain a account and by an affidavit submit in the court. In I.A. No. 2785 of 2023 further order shall be passed on the next date.

10. We have already directed the Learned Counsel for the IRP to categorise all applications which are pending in this appeal including the applications by Home Buyers, other lenders and intervention application.

11. In the meantime, said categorisation shall be completed and in a chart form it should be submitted to the Court so that other applications may be considered. Those applications of which hard copies have not been filed they are permitted to filed within two weeks.

12. Learned Counsel for the Lenders (L& T Finance) have objected any withdrawal from 30% account.

13. Let these appeals be taken for consideration on **18<sup>th</sup> September, 2023**  
at **2.00 P.M.**

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/nn*

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Khyati Jain, Mr. Bhupender Premi, Advocates for Appellant.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Niharika Sharma, Ms. Himani Chhabra, Advocates for IRP.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No. 3281 of 2022.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Yash Srivastava, Advocates for Indiabulls.

Ms. Vibha Datta Makhija, Sr. Advocate, Ms. Baani Khanna, Mr. Pravin Gaur, Ms. Kanika Sachdeva, Advocates for Homebuyers.

Mr. Sumesh Dhawan, Mr. Nikhil Mehndiratta, Mr. Shaurya Shyam, Advocates for Intervenor in I.A. No. 3776.

Mr. Sarthak Sharma, Advocate for Applicant in I.A. Nos. 2717/2022 & 4213/2022.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. Paban K. Sharma, Mr. Pranas Kumar Nayan, Advocates for EV-2.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Advocates for R-1 (UBI).

Mr. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Advocates in I.A. No. 2763 of 2023

Mr. Nanshad Khan, Adv. in I.A. 624.

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for

L&T finance in I.A. No. 3034 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi and Mr. Vaibhav Kumar, Advocates in I.A. No. 4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikas Kumar, Advocates for Applicant in I.A. No. 4306.

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Mr. Kamal Agarwal for RP.

### **ORDER**

**18.09.2023:** After we have passed the order dt. 27.07.2023 a status report has been submitted by the IRP dated 15.09.2023. It has been submitted in the Status Report that the two due diligence i.e. legal and market/ valuation have been completed and reports submitted on 14.09.2023. It is submitted that the earnest and young LLP has been appointed to carry out the Financial and Tax Due Diligence which is under process. It is submitted that the agency i.e. EY has asked for certain further time of 7 to 10 days to complete their Financial and Tax Due Diligence. It is submitted that interim finance provider has submitted that after all reports are received in the same time all necessary formalities including the term sheet shall be completed and submitted.

2. A perusal of the status report indicates that substantial steps were taken after our order dated 27.07.2023 and looking to the huge data and number of projects the time prayed for completing the Financial and Tax Due Diligence is not unreasonable. We, thus, are of the view that a further opportunity of 10 days for completing Financial and Tax Due Diligence and thereafter further 10 days to completing the interim finance process including the term sheet be allowed.



3. Learned Counsel for the appellant submitted that appellant's have always been continuously providing all relevant data as and when asked for. He submits that appellant is still ready to provide any further information or data which is in their possession as and when demanded. We are of the view that the said process is to be completed within one week.

4. Learned Counsel for the Home Buyers have submitted that there are several issues raised in different applications which needs to be considered. Learned Counsel for the IRP by our earlier order was directed to categorise the applications and index them. It is submitted that certain new applications have been filed till date.

5. We are also of the view that the IRP may file a consolidated reply to all the applications giving their response to the issues raised in the applications and other relevant issues. We allowed IRP two weeks time from today to file a consolidated reply and the said reply may also be uploaded on the website, so that, all concerned may download the same.

6. Affidavit on behalf of the IRP dated 15.09.2023 has been looked into where IRP has given the details of amount of Rs. 2.5 crores released by our earlier order dated 27.07.2023. Learned Counsel for the IRP submits that work regarding fire safety is in progress, hence, certain more amount be released in the same term. In view of the aforesaid, we further direct utilisation of Rs. 2.5 crores in same terms and conditions as contained in the order dated 27.07.2023.

7. List this appeal on **19.10.2023** at **2.00 P.M.** by which date status report regarding completion of all steps should be filed. With regard to fire safety aspects IRP may also submit a up to date report.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/nn*

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Lashita Dhingra, Ms. Khyati Jain,  
 Mr. Bhupender Premi, Advocates for Appellant.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Sagar Thakkar,  
 Advocates for Indiabulls.

Mr. Tanveer Oberoi, Advocate for Applicant in IA No. 4316 of 2023.

Mr. Sahil Sethi, Mr. Samridh Bindal, Mr. Vikas Kumar, Advocates for Applicant  
 in I.A. No. 4306 of 2023.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Kunal Arora, Ms. Raghwi Rawat,  
 Advocates for R-1 (UBI).

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Ms. Vibha Datta Makhija, Sr. Advocate, with Mr. Viplav Acharya, Ms. Kanika  
 Sachdeva, Mr. Karan M. Advocates for Homebuyers.

Mr. Sarthak Sharma, Advocate for Applicant in IA No. 2717 of 2022, 4213 of  
 2022.

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for  
 L&T finance in I.A. No. 3034 of 2022.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No.  
 3281 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi and Mr. Umang Bhatia, Advocates in I.A. No.  
 4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Soayib Qureshi, Mr. Harikesh Anirudhan, Advocates in IA No. 5452 of 2023.

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Nikhil Mehndiratta, Advocate in IA No. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Kiran Sharma, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Soremil Jahurvar, Advocates for IRP.

Mr. Hitesh Goel, IRP in person.

Mr. Akshit Tyagi, Mr. Chandrakant Tyagi, Mr. Naushad Ahmed Khan, Advocates for applicants in IA No. 624 of 2023.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Mr. Tushar Sharma, Advocates.

**ORDER**  
**(HYBRID MODE)**

**22.11.2023:** We have heard Mr. Nakul Dewan, Learned Sr. Counsel appearing for the IRP and other Learned Counsels appearing for the appellant as well as Learned Counsel for the Financial Creditors and Homebuyers.

2. In pursuance of our order dated 19.10.2023 report has been submitted by Resolution Professional dated 21.09.2023 under the heading ‘Conclusion & Way Forward’ the following has been stated:

*“IV. Conclusion & Way Forward*

*(1) The cashflow of the corporate debtor is declining and thus, it is imperative that fresh funds are infused in order to complete the pending construction work in the Non-Eco Village II Projects of the Corporate Debtor and complete the units of the allottees. Further, it is pertinent to note that the due diligence of the corporate debtor has been completed and reports are available with the stakeholders. Unfortunately, the investor selected for providing interim finance i.e., Oaktree has declined*

*to proceed forward with undertaking the proposed interim finance transaction.*

*(2) Following the directions of this Hon'ble Appellate Tribunal dated October 19, 2023, the IRP reached out to 11 shortlisted potential investors and requested them to submit their binding term sheet by November 10, 2023 after the expiry of the exclusivity period given to Oaktree i.e, October 31, 2023. Moreover, the IRP provided the access to the due diligence reports and other necessary data to the 11 potential investors after requisite non-disclosure agreements and release letters. Subsequently, multiple meetings were scheduled with the potential investors by the IRP and his team to explain the transaction and current status of the CIRP of Supertech Limited. However, no binding term sheets were received as on November 10, 2023. Subsequently, on November 11, 2023, the IRP informed all the interested investors that the timeline as specified by the court has elapsed and the interim finance process stands concluded.*

*3) However, Varde Partners, one of the potential investor, had a detailed discussion and meeting with the IRP and conveyed their interest in this opportunity since its inception, provided an exclusivity period of 3-4 weeks from the lenders/stakeholders shall be given to them in order to invest their time and efforts & submit a updated term sheet for interim financing in Non-Eco Village II Projects of the Corporate Debtor. Subsequently, in the Joint Lenders meeting held on November 18, 2023 and on November 20, 2023, the indicative terms of the investor were conveyed to the lenders in presence of the potential investor i.e., Varde. Moreover, in the said meeting, L&T Finance has given a go-ahead to provide exclusivity to Varde.*

*(4) The IRP had also approached, among other potential investors, the SWAMIH fund of State Bank of India for funding, who have responded vide aforementioned email dated November 15, 2023 that they were evaluating only 7-8 projects which prima-facie fits into their investment criteria and would take around 45-60 days to convey their interest in financing such projects.*

*5) Following the discussions in JLM and confirmation received from Varde Partners, and considering what has been stated hereinabove, it is hereby submitted in the humble opinion of the IRP that Varde Partners be granted an exclusivity period of 3-4 weeks to analyze and evaluate the transaction using the available due diligence reports. This period is intended for Varde to confirm their interest, if feasible, submit the binding term sheet, and resultantly infuse funds into the Corporate Debtor thereby ensuring completion of the construction activities of the projects and ultimately achieving resolution for all stakeholders involved.*

*(6) In case any such proposal is not deemed feasible, then the IRP be allowed to devise an alternative solution/ strategy by having detailed discussions with the Lenders/ Steering Committee and submit the same before this Hon'ble Appellate Tribunal, which may be taken up for evaluation and consideration."*

3. Learned Counsel for the Union Bank of India also submits that they have no objection if 3-4 weeks time is allowed to Varde Partners.

4. Learned Counsel for L&T Finance and Union Bank of India has agreed that 3-4 weeks time be allowed. Learned Counsel for the IRP has also in paragraph 5 of the Conclusion & Way Forward has opined that Varde Partners be granted an exclusivity period of 3-4 weeks to analyse and evaluate the transaction using the available due diligence report.

5. In view of the above submissions, we are inclined to grant further 3-4 weeks time to analyse and evaluate the transaction using the available due diligence report by Varde Partners.

6. We, however, are of the view that in the present case several orders were passed granting time for exploring the interim finance and till date no concrete

proposal has come forward and the time has been taken by Varde Partners to evaluate. It is not known that what outcome will come out of the said exercise.

7. We, thus, are of the view that side by side granting time to the Varde Partners for evaluate and come with term sheet, if any, the IRP with the lender shall devise an alternate mechanism to carry out the Project of Non-Eco Village-II and on the next date in event no interim finance comes forward shall submit a alternative mechanism report for consideration of the Court so further steps shall be taken forward. Enough time has been given for arranging a interim finance and we are not inclined to grant any further time for exploring a interim finance except the time which is being allowed under this order.

8. Learned Counsel appearing in various I.As has also submitted that there are several other issues pertaining to homebuyers and those who are living in the various projects. We are of the view that first question of interim finance need to be finalised and the way forward may be devised, only then the court shall proceed to consider the individual I.As and pass appropriate direction in those I.As. further.

9. In view of the aforesaid, we allow four weeks time for Varde Partners to analyse and come with a term sheet duly vetted by the IRP and the Steering Committee. As directed above the IRP with the Steering Committee and lenders may devise an alternative mechanism and that may also be filed on the next date of hearing.

10. We direct this matter to be taken on **16.01.2024** at **2.00 PM**.

11. Learned Counsel for the IRP submits that with regard to fire safety projects is in progress and the amount which was already released has already exhausted.

12. Let the amount 2.5 crores be further release in terms as per earlier order dated 27.07.2023 passed by this Tribunal.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/md*



**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Ins.) No. 406 of 2022 &**  
**I.A. No. 2387 of 2023**

**IN THE MATTER OF:**

**Ram Kishor Arora**  
**Suspended Director of Supertech Ltd.**

**....Appellant**

**Vs.**

**Union Bank of India & Anr.**

**....Respondents**

**Present:**

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Nikhil Mendiratta, Mr. Agastya Sen, Advocates in IA no. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Kiran Sharma, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Ashish Mukhi, Advocates for RP of Supertech.

Mr. Hitesh Goel, RP in person.

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Siddharth Bhatli, Ms. Apurva Praveen, Ms. Khyati Jain, Ms. Heena Kochar, Advocates for Appellant.

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. Shaurya Krishna, Mr. Amit Garg, Advocates for Applicant in IA No. 4713/2022.

Mr. Rohan Thowani, Mr. Pratul Pratap Singh, Advocates.

Mr. Rohit Oberoi, Ms. Jhanvi Vashisht, Ms. Mehak Bhalla, Advocates in IA No. 4574, 4775/2022.

Mr. Tanveer Oberoi, Advocate for Applicant in IA No. 4316 of 2023.

Mr. Sarthak Sharma, Advocate for Applicant in IA No. 2717 of 2022, 4213 of 2022.

Mr. M.L. Lahoty, Mr. Anchit Sripat, Advocates.

Mr. Sahil Sethi, Mr. Samriddh Bindal, Mr. Vikash Kumar, Advocates for

Applicant in I.A. No. 4306 of 2023.

Mr. M.P Sahay, Ms. Awanitika, Mr. Sachin Kharb, Mr. Tushar Sharma, Advocates for Applicant.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Jivtesh Singh Sandhu, Advocates for R-1 (UBI).

Mr. Gopal Jain, Sr. Advocate with Mr. Ajay Bhargava, Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L&T finance in I.A. No. 3034 of 2022.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No. 3281 of 2022.

**ORDER**  
**(HYBRID MODE)**

**12.02.2024:** In pursuance to our order passed on 22.11.2023, 2<sup>nd</sup> Status Report has been filed by IRP dated 11.02.2024 and earlier Status Report was filed on 15.01.2024. In our order dated 22.11.2023, we issued following direction in paragraphs 4,7 & 9:-

*“4. Learned Counsel for L&T Finance and Union Bank of India has agreed that 3-4 weeks time be allowed. Learned Counsel for the IRP has also in paragraph 5 of the Conclusion & Way Forward has opined that Varde Partners be granted and exclusivity period of 3-4 weeks to analyse and evaluate the transaction using the available due diligence report.*

*7. We, thus, are of the view that side by side granting time to the Varde Partners for evaluate and come with term sheet, if any, the IRP with the lender shall devise an alternate mechanism to carry out the Project of Non-Eco Village-II and on the next date in event no interim finance comes forward shall submit a alternative mechanism report for consideration of the Court so further steps*

*shall be taken forward. Enough time has been given for arranging a interim finance and we are not inclined to grant any further time for exploring a interim finance except the time which is being allowed under this order.*

*9. In view of the aforesaid, we allow four weeks time for Varde Partners to analyse and come with a term sheet duly vetted by the IRP and the Steering Committee. As directed above the IRP with the Steering Committee and lenders may devise an alternative mechanism and that may also be filed on the next date of hearing.”*

2. In the report which has been submitted by IRP dated 11.02.2024, it is submitted that certain progress has been made with regard to Varde Partners proposal for interim finance and Varde team has interacted with the IRP visited the sites and obtained necessary information and has done its due diligence sample of 707 customers were also shared by IRP. However, the report indicates that as on date no term sheet has been received, nor any concrete proposal for extending the interim finance. We had already in our order dated 22.11.2023 in paragraph 7 as extracted above has directed the IRP with the lenders to devise an alternative mechanism to carry out the project of Non-Eco Village-II.

3. Learned Counsel appearing for the Lenders submitted that sufficient time has been already granted for interim finance which has not yet come although several opportunities were granted. We, thus, are of the view that no further opportunity is required to be granted for interim finance. However, during consideration of these appeals if any final interim finance is received it

will be open for the IRP to apprise the Court with a term sheet and other materials.

4. Mr. Nakul Dewan, Learned Senior Counsel appearing for IRP submits that in view of directions which was issued in paragraph 7, the IRP has also collected certain data with regard to separate projects and has also discussed with the Steering Committee way forward.

5. The Corporate Debtor has several projects atleast 20 as noted in our earlier orders. Sufficient time has elapsed and no concrete proposal has come towards interim finance, Homebuyers are waiting for their units to be given to them. Homebuyers have also given substantial amount to the Corporate Debtor. Every project has different lenders, different charge holders.

6. Learned Counsel for the IRP submits that way forward can only be project wise resolution, for each project a concrete proposal has to be submitted in which after consultation with lenders and charge holders and the representative of the home buyers for that particular project. We, thus, are of the view that IRP be allowed to submit project wise resolution of the Corporate Debtor and for project wise resolution IRP shall prepare a draft proposal and send it to lenders and charge holders of the project and after receiving their inputs on the draft proposal may submit a proposal to the court for consideration. With regard to each project all concerned I.As shall also be considered while considering the projects. Let IRP finalize the project wise proposal and submit to the Court within a period of four weeks.

7. IRP has submitted that he shall give access to virtual data to the request which has been made by any stake holder after due verification.

8. Learned Counsel for the IRP referring to Status Report dated 15.01.2024 submitted that with regard to fire safety related issues the several safety work has been completed he has referred to Annexure A8 where Summary of safety-related work that has been planned, completed, and paid for till 05.01.2024 has been tabulated. It is submitted that amount of INR 8.6 crores has been spent towards the safety related work and details have been mentioned with regard to aforesaid safety related work in paragraph 4 of the report. In paragraph 4 (h) of the report following has been further stated:

*“4. h) In light of what have been stated hereinabove, if this Hon’ble Appellate Tribunal may permit the IRP to appropriate another INR 2.5 crore from funds lying in designated 30% accounts of the projects, to complete the pending safety related work as per the budget and plan proposed in the application filed by the IRP and will also be a significant improvement in ensuring the safety of occupants.”*

9. We permit the further release of another INR 2.5 crore from funds lying in designated 30% accounts as in term and conditions of earlier order dated 27.07.2023. IRP shall submit a detailed report regarding work done details of the payment and other details in the next report with regard to fire safety a separate report be submitted with regard to projects in question.

10. List this appeal on **22.03.2024** at **2.00 PM**.

11. Learned Counsel for the IRP has submitted that separate date be given with regard to Eco-Village-II Project in which CoC has already been constituted.

12. He has filed I.A. No. 303 of 2024 in Comp. App. (AT) (Ins.) No. 406 of 2022. Let I.A. No. 303 of 2024 be listed along with the appeal on **20.03.2024** at 2.00 PM.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

*sa/nn*

<b>Computation of Unpaid CIRP Cost- as on 31 March 2025</b>		
<b>Sl. No.</b>	<b>Particulars</b>	<b>Amount INR Crores</b>
1	Outstanding Salary and F&Fs	3.33
2	IRP	0.46
3	IPE	0.92
4	Data Room, Claim Portal and other IT services	0.38
5	Consultants ( PMC and others)	0.27
6	Due Diligence cost	0.56
7	Legal Cost ( incl. IRP Legal counsel)	1.59
8	Pending Statutory Expenses (GST, TDS, ESI, PF)	1.80
9	Auditors ( Stat and Internal Auditors)	0.24
10	File Management	0.15
11	Utilities and others office expenses including travel	0.46
12	Ev2 expenses (IP, IPE,Process cost)	0.91
	<b>Total</b>	<b>11.06</b>
<p><i>Note : Expenses pertaining to EV2 shall be paid from 30% account of EV2 as per the order dated 19 September 2024 of Hon'ble NCLAT</i></p>		

## Utilization Mechanism

All Amounts in INR Crores

S.No.	Project Name	30% Balance	Project wise allocated pending Exp Upto Feb 25 from 30% account	Project wise allocated going Concern over 6 months (incl March)	Contractor Payments - Allocation	Fire Safety & other Imp Infra Exp	Balance
1	Araville	1.13	0.31	0.31	0.13	0.48	(0.10)
2	CAPE TOWN	3.38	0.94	0.94	0.38	1.35	(0.22)
3	CZAR	1.81	0.50	0.50	0.20	0.69	(0.08)
4	ECO VILLAGE 1	0.00	0.00	0.00	0.00	2.78	(2.78)
5	ECO VILLAGE 2	6.10	0.91	1.69	0.68	1.50	1.32
6	ECO VILLAGE 3	4.58	1.27	1.27	0.51	0.71	0.82
7	HILL TOWN	2.04	0.56	0.56	0.23	4.25	(3.57)
8	MEERUT SPORTS CITY	0.15	0.04	0.04	0.02	0.11	(0.06)
9	MICASA	13.27	3.67	3.68	1.48	0.30	4.14
10	NORTH EYE	0.68	0.19	0.19	0.08	1.77	(1.54)
11	RIVER CREST	0.31	0.09	0.09	0.03	0.24	(0.14)
12	ROMANO	4.44	1.23	1.23	0.49	1.86	(0.37)
13	UP COUNTRY	0.34	0.09	0.09	0.04	0.67	(0.56)
14	ECOCITY	3.84	1.06	1.06	0.43	-	1.29
15	GREEN VILLAGE, MEERUT	0.00	0.00	0.00	0.00	0.08	(0.07)
16	SPORTS VILLAGE	0.68	0.19	0.19	0.08	-	0.23
17	OTHER PROJECTS & HO*	3.95	-	-	-	1.50	2.45
	<b>Grand total ( excl. 17)</b>	<b>46.70</b>	<b>11.06</b>	<b>11.84</b>	<b>5.00</b>	<b>18.29</b>	<b>0.51</b>

\* Lift installation in livingstone and critical fire and safety related infra at Shopprix mall, Meerut

\*Outstandig Expenses of Ev2 are to be paid from Ev2 account

\*Other Project and HO Balance denotes balances in current account only as there is no bifurcation of 30% account

\* For the Projects with negative balance (I), some activities will be completed from new collection, in case we don't get enough collection, some activities may be deferred

## Going concern cost to be incurred over next 6 months including IRP and Process cost to be paid from 30% account

Sl. No.	Particulars	Amount INR Crores
1	Salaries	3.99
2	IRP	0.46
3	IPE	0.59
4	Data Room, Claim Portal and other IT services	0.34
5	Consultants ( PMC and others)	0.43
6	Legal Cost ( incl. IRP Legal counsel)	0.77
7	Statutory Expenses (GST, TDS, ESI, PF)	1.64
8	Auditors ( Stat and Internal Auditors)	0.57
9	File Management	0.17
10	Utilities and others office expenses including travel	2.15
11	Customer Compensation basis Supreme Court Order in Apex Ceyane case	0.44
12	Misc. cost	0.30
	<b>Total</b>	<b>11.84</b>

Note: The cost estimate above does not include fees for lawyers who are not on retainer with the CD and charge on a per-hearing basis.

Utilities and other office expenses include projected electricity cost and security cost for project sites





Annexure R

**bharatkosh.gov.in**  
Government of India Receipt Portal**RECEIPT**

Transaction Ref.No. 1504250017718 Dated: Apr 15 2025 1:17PM

Received from MR. TUSHAR KUMAR with Transaction Ref.No.  
1504250017718Dated Apr 15 2025 1:17PM the sum of INR 1000 (One Thousand Only)  
through Internet based Online payment in the account ofFILLING FEE, , Filing of IA.**Disclaimer:- This is a system generated electronic receipt, hence no physical signature is required for the purpose of authentication***Printed On: 15-04-2025 01:18:31*

## Annexure-S

This is an application filed pursuant to the order dated 10.06.2022 of the Hon'ble NCLAT in CA (AT.) (Ins.) 406 of 2022 and this application is not required to be served.