NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 987 & 988 of 2025 &
I.A. No. 4846 of 2025, 749, 750 of 2026

(Arising out of Order dated 05.06.2025 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench (Court-V) in I.A.2729/2021 & IA 5134/2020 in Company Petition No.(IB)-755/PB/2018)

IN THE MATTER OF:

Maximal Infrastructure Pvt. Ltd. ...Appellant

Versus

Ganga Ram Agarwal, RP ...Respondent

Present:

For Appellant	**:**	**Mr. Abhijeet Sinha Sr. Advocate with Mr. Nitesh Jain, Ms. Priyadarshani Dewan, Ms. Shankari Mishra, Mr. Deepak Kumar and Ms. Niti Khanna, Ms. Niti Khanna, Ms. Parul Khurana and Ms. Apurva, Advocates**
For Respondents	**:**	**Mr. Vaibhav Gaggar, Sr. Advocate with Mr. Amar Vivek, Mr. Aditya Gauri, Ms. Damini Srestha Johri, Mr. Anant Jain, Mr. Aryan Chhabra, Mr. Akash Kumar, Advocates for RP.**
		Mr. Abhimanyu Bhandari, Sr. Advocate with Ms. Nattasha Garg, Mr. Anubhav Dubey and Mr. Thakur Ankit Singh, Advocates for Intervenors/ Homebuyers.
		Mr. Sanjiv Sen, Sr. Advocate with Mr. Prahalad Balaji. Ms. J. Sing, Ms. Simran Gupta, Advocates for Parela.

J U D G M E N T

ASHOK BHUSHAN, J.

These two Appeals have been filed challenging the order dated 05.06.2025 passed by National Company Law Tribunal, New Delhi Bench (Court-V) in IA No.2729/2021 (filed by the Appellant) & IA No.5134/2020 (filed by the Resolution Professional) in Company Petition No.(IB)-

755/PB/2018. By the impugned order the Adjudicating Authority has disposed of both the IAs. Aggrieved by which order, these two Appeals have been filed.

2. Brief facts of the case necessary to be noticed for deciding the Appeal are:

(i) M/s Triveni Ferrous Infrastructure (P) Ltd. (Predecessor of the Appellant – M/s Maximal Infrastructure Pvt. Ltd.) obtained license No.34 of 2007 for setting up a group housing colony. Two other license Nos.35 and 36 of 2007 were granted to Mr. Sumit S/o H.C. Mittal and M/s Triveni Ferrous Infrastructure (P) Ltd., M/s Ferrous Alloy Forgings (P) Ltd. for developing a group housing at Village-Tikkawali, District Faridabad. Total land covered by the three licenses was 48.038 acres.

(ii) On 15.01.2008, M/s Triveni Ferrous Infrastructure (P) Ltd. and other owners of the land executed a Development Agreement dated 15.01.2008 in favour of M/s PAL Infrastructure & Developer Pvt. Ltd. for an area measuring 7.2431 acres situated in Sector-89, Faridabad. By Development Agreement, owners granted, conveyed and transferred to the Developer all their rights, titles interest in the construction and sale of the part of the group housing over land measuring 7.2431 acres situated in Sector-89,

Faridabad, which comprises of 797213.34 sq. ft of sanctioned FSI. In pursuance of the above Development Agreement, the owners executed an irrevocable Power of Attorney dated 20.03.2008 in favour of nominee of Developer.

(iii) The Developer in pursuance of development rights having been granted executed 664 Builder Buyers Agreement beginning from 07.06.2008 allotting different units. The allottees made payment in pursuance to the Flat Buyers Agreement to the Developer.

(iv) On 17.06.2009 a cancellation of General Power of Attorney was issued by the owners, revoking the General Power of Attorney dated 20.03.2008. On 17.06.2009, the Appellant also claimed to have issued a letter to the Developer intimating the termination of the Development Agreement dated 15.01.2008 and offering to refund Rs.36.58 crores to the Developer.

(v) Certain cheques, which were issued by the Developer in pursuance of Development Agreement dated 15.01.2008 were dishonoured, which led filing of complaint under Section 138 of Negotiable Instruments Act, 1881.

(vi) The owner consisted of two groups namely – Seth Group and Mittal Group. Certain *inter-se* dispute arose between the Seth Group and Mittal Group, which led to filing of criminal cases. A Writ Petition (Criminal) No. 5 of 2015 – Ashish Seth

vs. Govt. of NCT of Delhi & Ors. was filed in the Supreme Court of India. The Hon'ble Supreme Court of India in the said Writ Petition issued a direction referring the matter to mediation (Mr. Justice R.V. Raveendran, formerly a Judge of the Supreme Court). Both the parties appeared before the Mediator and a Memorandum of Settlement dated 04.05.2015 was signed by both the parties, which was placed before the Hon'ble Supreme Court in the Writ Petition. It was agreed between the parties that license fee to Directorate of Town and Country Planning ("**DTCP**") for renewal of license No.34, 35 and 36 shall be shared. The agreed terms between the parties also noticed that licensee have granted development rights to five companies, which also included M/s PAL Infrastructure & Developer Pvt. Ltd. Certain clauses also dealt with bifurcation of land.

(vii) On an application filed by the Financial Creditor S.C.S.L Buildwell Pvt. Ltd. proceedings under Section 7 were initiated against the CD - M/s PAL Infrastructure & Developer Pvt. Ltd. by an order dated 05.09.2019.

(viii) Under the orders of the Supreme Court India dated 05.05.2015, Haryana RERA passed various orders with regard to bifurcation of license, including order dated 01.10.2019.

(ix) With regard to bifurcation of license, proceedings were also initiated before the DTCP. The Appellant as well as other parties appeared before the DTCP. The DTCP noticed in various orders that licensee has transferred development rights to five Developer Companies. Proceedings were also taken before the DTCP for transfer of beneficial rights under the bifurcated license. Beneficial rights were transferred to two Companies heritage and Ors. Beneficial rights were not transferred in favour of M/s PAL Infrastructure & Developer Pvt. Ltd., since it was under liquidation (insolvency resolution process), which was noted by DTCP. We shall notice the details of order passed by HRERA and DTCP subsequently. Contempt Applications were also filed before the Supreme Court arising out of order dated 05.05.2015 by both the Groups against each other, in which contempt proceedings, orders were passed by the Supreme Court on 24.04.2020 and 09.10.2020. Details of which we shall notice hereinafter.

(x) The Resolution Professional ("**RP**") wrote a letter dated 24.08.2020 to the owners informing them to file claim in the Corporate Insolvency Resolution Process ("**CIRP**") of the CD. In reply to the letter dated 24.08.2020, the Appellant wrote to the RP that Appellant has terminated the Agreement dated 15.01.2008 in question by its letter dated 17.06.2009 and has taken back the physical possession.

(xi) The RP in the information memorandum has shown the said land and project in question as the assets of the CD and has issued invitation of Expression of Interest ("**EoI**").

(xii) An IA No.5134 of 2020 was filed by the RP where various reliefs were prayed for, including the direction to the owners to remove their unauthorized control over the said land. The Appellant filed a reply to the said IA. The Adjudicating Authority vide its order dated 15.12.2020 directed the RP not to proceed with the Resolution Plan, until orders passed in the application filed by the RP and other Applicants.

(xiii) On 21.06.2021, the Appellant filed an application – IA No.2729 of 2021 praying direction to RP to exclude the project and property of the Appellant from CIRP of the CD and to delete the Appellant's property from the invitation of EoI and to recall EoI. The application was opposed by the RP by filing a detailed reply.

(xiv) On 09/10.12.2021 the DTCP did not accept the request for assignment of beneficial rights in favour of CD. The RP filed an Appeal, which was rejected.

(xv) The Appellant during the currency of the CIRP, transferred development rights in the project in favour of a Company – Parcela Real Estate Pvt. Ltd. ("**Parcela**"). An application was filed by the Appellant and the Parcela before the DTCP for change of beneficial interest over a part of license for an area

measuring 7.2431 acres in favour of Parcela, which was allowed by DTCP vide order dated 16.11.2023. The RP filed a Writ Petition Civil No.12811 of 2024 against the order dated 14.07.2023 passed by Additional Chief Secretary and a Writ Petition Civil No. 12865 of 2024 against the order dated 16.11.2023 passed by DTCP, which Writ Petitions were dismissed as withdrawn on 03.07.2024 as the RP informed the Court that he has already sought the same relief, which is pending before the NCLT and sought permission to withdraw, which was allowed on 03.07.2024.

(xvi) The Adjudicating Authority passed an order on 25.04.2024 directing the partis to file affidavit regarding construction on the project land. In pursuance of the order of Adjudicating Authority, affidavits were filed by the RP, giving details of the construction, whereas an affidavit was filed by the Appellant stating that no construction has taken place on the project after cancellation of the Development Agreement.

(xvii) The Adjudicating Authority heard the parties and by the impugned order disposed of the applications. The Adjudicating Authority did not grant the relief to the Appellant to exclude the project land from the assets of the CD and upheld the decision of the RP to include the assets in the information memorandum. The Appellant was also permitted to file its claim before the RP, if any. Both the

applications were disposed of accordingly. Aggrieved by which order, these Appeals have been filed.

3. In the Appeal, IA Nos.4311 and 4312 of 2025 have been filed by PAL Garden Allottee Welfare Association claiming to be homebuyers and allottees of the project, seeking various reliefs. The Applicant claims to be impacted by the prayer made by the Appellant to exclude the project from the CIRP of the CD. A reply has been filed by the Appellant to the application, to which a rejoinder has also been filed.

4. IA Nos.749 and 750 of 2026 have been filed by Parcela Real Estate Pvt. Ltd. seeking intervention in the Appel and also praying to set aside the impugned order passed by the NCLT. The Applicant claimed that it had purchased the marketing and development rights in the subject land on 26.11.2022 from the Appellant. The Applicant has also been granted change of beneficial interest by the DTCP Haryana on 16.11.2023, which was also challenged by the PAL Garden Allottee Welfare Association by filing IA No.1379 of 2024 before the Adjudicating Authority, which application is still pending. The RP has also challenged the memo dated 16.11.2023 by filing an IA No.2764 of 2024, which IA is also pending. The RP has challenged the transfer of beneficial rights in favour of Parcela before the High Court of Punjab and Haryana, which Writ Petition was dismissed as withdrawn on 03.07.2024.

5. We have heard Shri Abhijeet Sinha, learned Senior Counsel appearing for the Appellant; Shri Vaibhav Gaggar, learned Counsel

appearing for the RP; Shri Ahbimanyu Bhandari, learned Senior Counsel appearing on behalf of Pal Garden Allottee Welfare Association (Intervenor in the Appeal); and Shri Sanjiv Sen, learned Senior Counsel appearing for Parcela Real Estate Pvt. Ltd., who has filed IA Nos.749 and 750 of 2026.

6. Learned Senior Counsel for the Appellant challenging the impugned order submits that Adjudicating Authority had no jurisdiction to adjudicate on the question of development rights claimed by the CD. The development rights granted to CD vide Agreement dated 15.01.2008 was terminated as per the terms of the Agreement dated 15.01.2008. The Development Agreement was terminated by letter dated 17.06.2009. The development rights given to the CD having been terminated much before the initiation of CIRP, the Adjudicating Authority could not have adjudicated on the issue of claim of development rights of the CD. The development rights could not have been the assets of the CD, it being no more in existence on the date when CIRP commenced against the CD. It is submitted that the Development Agreement dated 15.01.2008 with the CD got automatically terminated as per Clause 5.2 of the Development Agreement, which was intimated to the CD vide letter dated 17.06.2009. The Agreement itself provided that in case of dishonour of cheques given for consideration, the Agreement shall automatically terminated and 10% of the total contractual amount shall be forfeited and balance shall be refunded within a period of one year. In the letter dated 17.06.2009 written to the CD, it was mentioned that the CD should collect the cheque from the owners. The Directors of the CD being absconding, the amount

received towards consideration, could not have been paid to the CD. It is submitted that the factum of termination by letter dated 17.06.2009 is not in dispute. The RP never disputed the termination of Agreement. In the reply filed by the Appellant to IA filed by the RP, it was pleaded that Development Agreement was terminated. The PAL Garden Allottee Welfare Association wrote a letter dated 18.04.2016 to the DTCP, where the termination of the Development Agreement and Power of Attorney was also mentioned. In the several orders passed by DTCP, termination of Development Agreement has been noticed. Reference has been made to the order dated 22.11.2022 passed by DTCP. It is further pleaded that an Appeal was filed by the RP against the said order, which also dismissed by the Appellate Authority. The Hon'ble Supreme Court in its order dated 05.05.2015 passed in Writ Petition (Criminal) No.5 of 2015 has also noticed the termination dated 17.06.2009. It is submitted that requirement of refund under Clause 5.2 is not a condition precedent to termination. An Agreement shall be automatically terminated as per Clauses in the Agreement. Non-refund of the amount could only entitle the CD to seek remedy of recovery from the Appellant. The Appellant has already offered the amount in 2009 to the CD, which was not taken. No construction was carried out by the CD after 17.06.2009. The affidavit filed by the RP before the Adjudicating Authority, replying on certain material is insufficient. An affidavit was filed by the Appellant on 19.07.2024 stating that after termination of Agreement no construction took place. The Adjudicating Authority had no jurisdiction to adjudicate and come to a finding regarding construction. Before the Haryana RERA,

the Appellant had stated that Development Agreement in favour of the CD was cancelled in 2009. The allottees/Association of CD had approached the DTCP for transferring the beneficial rights in their favour vide letter dated 18.04.2016. The Adjudicating Authority had no jurisdiction to adjudicate contractual disputes between the parties. The impugned order exceeded the jurisdiction of the Adjudicating Authority. The Appellant after cancellation of the Development Agreement in favour of the CD has transferred the development rights to Parcela in the year 2022 and DTCP has also granted the beneficial rights in favour of Parcela by order dated 16.11.2023. Reliance of RP on the orders passed by the Hon'ble Supreme Court in Writ Petition No.04 of 2015 and the contempt proceedings, are not relevant. The CD was never party to the proceeding before the Supreme Court. The properties and assets, which are not part of the CD, cannot be made subject to the CIRP. The Adjudicating Authority committed error in rejecting the application filed by the Appellant for excluding the assets from the CIRP of the CD.

7. Learned Counsel appearing for the RP refuting the submissions of the Appellant submits that development rights were with the CD on the date of commencement of the CIRP. As per the Development Agreement, the CD had made a payment of Rs.39,59,02,029/- and Rs.2,18,00,000/- to the owners. Under the Development Agreement, it was the obligation of the owners to refund the amount received after forfeiting 10% of the amount within one year. The Agreement having not been complied by the Appellant, it is not open for the Appellant to contend that development

rights in favour of the CD has been lost. It is submitted that the letter dated 17.06.2009 never saw the light of the day and for the first time it was filed before the Adjudicating Authority along with an affidavit of the Appellant dated 17.09.2024. The letter dated 17.06.2009 was never produced by the Appellant prior to the said date either in the CIRP or before any other proceedings. The letter dated 17.06.2009 was never served on Corporate Debtor. Right from 2009 till commencement of CIRP no communication was sent by Appellant, Corporate Debtor even claiming termination of Development Agreement. Before the DTCP, the Appellant had appeared and admitted that the Appellant does not possess any development rights and the same has been transferred to five Companies, which included the CD. The said submission was made by the Appellant both before the Haryana RERA and DTCP in the year 2009. It is submitted that in the order passed by the Hon'ble Supreme Court dated 05.05.2015 in Writ Petition (Criminal) No.5 of 2015, the development rights in favour of the CD was noticed. The Hon'ble Supreme Court held that the Appellant Group was entitled to cancellation of respective Agreements and Power of Attorney against the CD, ORS and Heritage, if any default is committed, which clearly indicate that Development Agreement was recognized in favour of the CD, even by the Supreme Court. Order of the Supreme Court also noticed the submission of the Seth Group that GPA executed in favour of CD has been cancelled on 17.06.2009, which cannot be read as any claim of termination of Development Agreement. Before the DTCP, the Appellant took the stand that development rights have been given to five Companies. The Haryana

RERA took the view that the license Nos.34, 35 and 36 are required to be divided among developer Companies. The beneficial interest in the license could not be transferred in favour of the CD by the DTCP, since the CD was in CIRP and has not deposited fee, which shall not affect the development right possessed by the CD. The Writ Petition filed by the RP before the Punjab and Haryana High Court was withdrawn on 03.07.2024 informing the Court that CIRP is pending before the NCLT and RP shall take remedy before NCLT. Withdrawal of the Writ Petition by Punjab and Haryana High Court on 03.07.2024 has no effect on the rights of the CD. With respect to rights granted by the DTCP in favour of Heritage and M/s. ORS, the Appellant has filed a Writ Petition before the High Court of Punjab and Haryana, challenging the said order, which Writ Petition has been dismissed. The CD has carried on with the construction. The CD after having received the Development Agreement has entered into Builder Buyers Agreement with 664 allottees and has received substantial amount. The CD has also carried out construction in the project land even after alleged termination of Development Agreement dated 17.06.2009. An affidavit was filed by the RP before the Adjudicating Authority referring to relevant materials to prove that construction was continued by the CD and 70% of the construction is complete. The Appellant having admitted the development rights in favour of the CD before Haryana RERA and DTCP, it cannot now claim that development rights were not continued in favour of the CD. After CIRP having commenced, the rights of the CD have to be determined in the CIRP and Adjudicating Authority had every jurisdiction to consider the application

filed by the RP. The application filed by the Appellant for excluding the assets from CIRP of the CD has rightly been rejected. Transfer of development rights in favour of Parcella in the year 2022 by Appellant is void and without jurisdiction.

8. Learned Senior Counsel appearing for PAL Garden Allottee Welfare Association submits that the CD has allotted various units to 664 allottees. The allottees have invested their lifelong savings in the project and are waiting for their homes from 2009. Several complaints were filed before the DTCP and Writ Petitions were also filed by the allottees. It is submitted that in view of the order of the Hon'ble Supreme Court dated 05.05.2015, it is the Mittal Group, i.e. the Appellant in whose share the land in which development rights given to the CD had come and Mittal Group before the Hon'ble Supreme Court has never claimed that development rights of the CD has been cancelled. Under the orders of Haryana RERA, the DTCP has bifurcated the license in favour of five Companies, who were given development rights. The letter which is claimed by the Appellant to be given by Allottees Association in 2016 to DTCP, is not correct, as the Allottees Association has been registered only in 2019, hence alleged termination dated 17.06.2009 was never acted upon. The Adjudicating Authority has noticed that 70% of the construction is already complete and the parties have not acted upon termination of Development Agreement. For the first time in its affidavit dated 19.07.2024, the Appellant came with the case that it found the letter dated 17.06.2009 from the old records, which letter for the first time

was brought on the record. The Allottees, who have paid substantial amount to the CD, cannot be left high and dry. The Appellant during the CIRP has transferred the development rights in favour of a Company – Parcela, which is void and without jurisdiction. When the application filed by the Appellant, i.e. IA No.2729 of 2021 claiming to exclude the assets from the assets of the CD was pending, the Appellant had no authority to transfer development rights to another Company. Transfer of development rights in favour of Parcela by subsequent action is void and non-est. The Appellant – Mittal Group has been found to violate the order of the Hon'ble Supreme Court in contempt proceedings and Punjab and Haryana High Court has also made adverse observations against the Appellant in its judgment in the Writ Petition filed by the Appellant challenging the transfer of beneficial rights in favour of Heritage and ORS.

9. Shri Sanjiv Sen, learned Senior Counsel appearing for Parcela supported the submissions of the Appellant and submits that the Appellant has transferred the development rights in favour of the Parcela on 26.11.2022 and Special Power of Attorney has also been executed in favour of Parcela on 30.11.2022. The DTCP has also accepted the change of beneficial interest in favour of Parcela by letter dated 16.11.2023. The order passed by Adjudicating Authority dated 05.06.2025 needs to be set aside.

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

11. From the submissions made by learned Counsel for the parties and materials on record, following are the issues, which arise for consideration in these Appeals:

(I) Whether the development rights in the subject land given to the CD by owners (Appellant herein) were terminated vide letter dated 17.06.2009, as claimed by the Appellant?

(II) Whether in the proceeding before the Hon'ble Supreme Court in Writ Petition (Criminal) No.5 of 2015, between Seth Group and Mittal Group, the termination of development rights in favour of the PAL Infrastructure Developers Pvt. Ltd. was brought to notice of the Hon'ble Supreme Court and whether the order of the Hon'ble Supreme Court notices the CD, as to whom development rights were transferred?

(III) Whether the Appellant before the Haryana RERA and DTCP has pleaded continuance of development right in favour of the CD till the year 2019, before initiation of CIRP against the CD?

(IV) Whether letter dated 17.06.2009, even if issued by predecessor of the Appellant, as claimed by the Appellant was given effect to?

(V) Whether the Adjudicating Authority had any jurisdiction to consider and decide the question of development rights as

claimed by the CD in subject when the Appellant has claimed that development rights stood cancelled on 17.06.2009, i.e. much before initiation of CIRP?

(VI) Whether Adjudicating Authority committed error in not accepting the prayer of Appellant in IA No.2729 of 2021 to exclude the project and Appellant's property from CIRP of the CD?

(VII) Whether the Appellant has any right to transfer the development rights in the subject land measuring 7.2431 acres to Parcela on 26.11.2022, during the pendency of the CIRP and what is the effect and consequence of such transfer of development rights?

12. Before we proceed to consider the issues as noted above, we need to recapitulate certain relevant facts as noted above. The present Appeal has been filed by Maximal Infrastructure Pvt. Ltd. formerly known as M/s. Triveni Ferrous Infrastructure Pvt. Ltd. M/s. Triveni Ferrous Infrastructure Pvt. Ltd. was Infrastructure Company in which two groups namely— Seth Group and Mittal Group and certain other companies floated by both the groups. Seth Group consisting of Mr. Surrender Seth, Mr. Ashish Seth, M/s. Ferrous Forging Ltd., M/s. Ferrous Alloys Forging Pvt. Ltd., M/s. Ferrous Township Pvt. Ltd. and M/s. Ferrous Infrastructure Pvt. Ltd. and Mittal Group consisting of Mr. Sumit Mittal and Mr. Madhur Mittal. M/s. Triveni Ferrous Infrastructure Pvt. Ltd. was

Real Estate Infrastructure Company floated by both the above groups. M/s. Triveni Ferrous Infrastructure Pvt. Ltd. acquired 48.05 acres of land in Sector 89 Faridabad. Both the Groups with respect to land of 48.05 acres situated at Sector 89 Faridabad (Village Tikkawali, District Faridabad) had applied for Licenses to Directorate of Town and Country Planning, Government of Haryana and license Nos. 34 of 2007, 35 of 2007 and 36 of 2007 dated 23.01.2007 was issued by Directorate of Town and Country Planning, Government of Haryana. License 34 of 2007 was granted in favour of M/s. Triveni Ferrous Infrastructure Pvt. Ltd. with respect to land measuring 36.75 acres in Village Tikkawali for developing a residential group housing colony under the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and Rules framed thereunder. License No.35 of 2007 was granted in favour of Mr. Sumit Mittal son of Late Shri H.C Mittal for setting a group housing colony with respect to land of 3 acres in Village Tikkawali. License No.36/2007 was granted in favour of M/s. Ferrous Alloys Forgings Pvt. Ltd. for setting up group housing colony at Village- Tikkawali on an area of 7.22 acres. After acquiring the above license for developing a group housing colony, M/s. Triveni Ferrous Infrastructure, M/s. Ferrous Alloy Forgings Pvt. Ltd. and Mr. Sumit Mittal referred to as 'first party', 'second party' and 'third party' entered into an agreement dated 15.01.2008 with M/s. Pal Infrastructure & Developers Pvt. Ltd.- 'fourth party' for consideration as agreed in the agreement. By Development Agreement, owners granted, conveyed and transferred to the fourth party all their rights, titles interest in the construction and sale of the part of the group housing over land

measuring 7.2431 acres situated in Sector-89, Faridabad, which comprises of 797213.34 sq. ft. of sanctioned FSI and both the parties had undertaken to develop and construct the said area in accordance with sanctioned plan. Approval and license is subject to terms and conditions. Total consideration was fixed as Rs.51,89,52,703/-. Out of the total consideration, Rs.39,59,02,029/- was earlier paid and amount of Rs.2,18,00,000/- was paid along with execution of the agreement. Balance amount Rs.10,12,80,674/- remain to be paid which was to be paid in six instalments by six post-dated cheques. Paragraph 5.1 deals with consideration which is as follows:

> *"5.1 That the consideration agrood to be paid in this Agreement shall be paid in the following manner:*
>
> *i) Rs.39,59,02,029/- (Thirty Nine Crores Pifty Nine Lakhs Two Thousand Twenty Nine only) has been paid till date as per annexure enclosed.*
> *ii) Rs. 2,18,00,000/- (Rupees Two Crores Eighteen Lakhs only) are being paid along with the execution of this Agreement.*
> *iii) The balance consideration of Rs. 10,12,80,674 shall be paid by the fourth party to the first party in 6 installments of as detailed below:*

S. No.	***Chq. No.***	***Dated***	***Amount(Rs.)***
1	*001302*	*15-01-08*	*66,470*
2	*001303*	*23-01-08*	*16,869,034*
3	*001304*	*23-07-08*	*16,869,034*
4	*001305*	*23-01-09*	*16,869,034*
5	*001306*	*23-07-09*	*16,869,034*
6	*001307*	*23-01-10*	*16,869,034*

7	*001308*	*23-07-10*	*16,869,034*
	Drawn on Yes Bank Ltd., Sikander Pur, Gurgaon		
		Total	*101,280,674*

iv) That for the payment of the above said balance consideration of Rs. 10,12,80,674/- the fourth party has issued 6 post dated cheques as per the details stated above. The fourth party has represented that these cheques shall ineet encashment on presentation."

13. Clause 5.2 further provides that in case any of the post-dated cheques are dishonoured, the agreement shall automatically stand terminated and under such circumstances 10% of the total contractual amount shall be forfeited and balance amount will be refunded by the first party without any interest to the fourth party within a period of one year from the date of such termination. Clause 5.2 is as follows:-

"5.2. That the parties have further agreed that in case any of the post dated cheques, being handed over by the fourth party to the first party as stated herein above, are dishonoured for any reason whatsoever then upon such dishonour the present Agreement shall automatically stand terminated and under such circumstances 10% of the total contractual amount shall be forfeited and balance amount will be refunded by the First Party without any interest to the

FOURTH PARTY with in a period of one year from the date of such termination."

14. It is on the record that certain cheques given by the Corporate Debtor for balance consideration were dishonoured and the proceedings under Section 138 of the Negotiable Instrument Act were initiated against the Corporate Debtor in the Court of Magistrate. A Power of Attorney was also executed in favour of nominee of the Corporate Debtor by the owners dated 20.03.2008 which was registered PoA which PoA was given both by M/s. Triveni Ferrous Infrastructure Pvt. Ltd. and M/s. Ferrous Alloys Forgings Pvt. Ltd. Power of Attorney came to be cancelled by Cancellation Deed of General Power of Attorney dated 17.06.2009. We have noticed above that disputes between two groups Seth Group and Mittal Group arose thereafter and Company Petition as well as criminal proceedings were initiated. Writ Petition (Criminal) No.5 of 2015 was filed by Ashish Seth in which proceeding Hon'ble Supreme Court appointed Justice R.V. Raveendran, Former Judge of the Hon'ble Supreme Court as Mediator and on the basis of Memorandum of Settlement dated 04.05.2015 between the parties an order dated 05.05.2015 was also passed by the Hon'ble Supreme Court details of which we shall notice hereinafter. Apart from proceeding before the Hon'ble Supreme Court, various proceedings were initiated before the Haryana RERA as well as Directorate of Town and Country Planning, Haryana which we shall also notice hereinafter. The CIRP against the Corporate Debtor had commenced by order dated 05.09.2019 of the Adjudicating Authority in which proceeding Resolution Professional has filed an IA No.5134 of 2020 and the Appellant has filed

an IA No.2729 of 2021 which were decided by the impugned order. We also need to notice that Appellants before us are the company of Mittal Group who has come to take place of the earlier company Triveni Ferrous Infrastructure Pvt. Ltd.

Question Nos.(I) to (IV)

15. The above questions being inter-related are being taken together. The central issue which has arisen between the two parties is with regard to claim of the Appellant of termination of Development Agreement granted in favour of the Corporate Debtor vide letter dated 17.06.2009 as claimed by the Appellant. We have noticed the relevant clauses of the agreement between the parties which provided that in event the cheques given for balance consideration are dishonoured, agreement shall be automatically terminated and the owner shall be liable to refund the amount received after forfeiting the 10% within one year from termination. Another limb of argument of the Appellant is that by letter dated 17.06.2009 issued by the company Triveni Ferrous Infrastructure (P) Ltd. to the Corporate Debtor the Development Agreement dated 15.01.2008 had been terminated.

16. We need to notice the letter dated 17.06.2009 as claimed by the Appellant. It is relevant to notice that the said letter has been brought on the record by the Appellant for the first time before the Adjudicating Authority by means of an Affidavit dated 19.07.2024. Prior to filing of the said letter before the Adjudicating Authority, the said letter was not filed

by the Appellant according to their own case in any earlier proceedings. We have noticed above that the Appellant in reply to the notice given by the Resolution Professional on 24.08.2020 and the reply to the Resolution Professional's IA No.5134 of 2020 was filed in which reply also the alleged letter dated 17.06.2009 was not produced. Appellant itself filed IA No.2729 of 2021 on 01.06.2021 in which IA also the letter terminating the Development Agreement was not brought on the record. For the first time, the letter was brought on record by means of Affidavit which we need to notice and the averments made in the Affidavit by which Appellant brought letter on record along with Affidavit of one Hari Mohan Gupta. In paragraph 8 of the Affidavit, it was pleaded on behalf of the Appellant that the letter of termination was not traceable due to old documents and it is only now it has been able to find the letter in the old files of the office. It is useful to notice paragraph 8 of the letter which is as follows:-

> *"8. It is further submitted that it is always been the case of the applicant/Maximal before this Hon'ble Tribunal that the Maximal has sent a letter of termination of agreement to PAL and also offered return of money after deduction of 10% forfeiture of the total contractual amount, but the same was not traceable due to old document. But now, as the applicant/ deponent was going through the old files in the office pertinent to licence of DTCP, able to find the letter dated 17.06.2009 of M/s Triveni Ferrous Infrastructure Pvt. Ltd [now Maximal] to PAL/ CD, giving intimation of termination of agreement dated 15.01.2008 and POA dated 20.03.2008. The said letter dated 17.06.2009 also offer to return Rs.36,58,03,759/- to PAL post handing over the*

original documents for destruction in terms of the Clause 5.3 of the cancelled Agreement.

The copy of the termination letter dated 17.06.2009 of M/s Triveni Ferrous Infrastructure Pvt. Ltd [now Maximal] to PAL/ CD, giving intimation of termination of agreement dated 15.01.2008 and POA dated 20.03.2008 is being annexed herewith as ANNEXURE A-3 (COLLY)."

17. Letter dated 17.06.2009 which was filed along with the Affidavit reads as follows:-

"Date:17.06.09

To,

M/s PAL Infrastructure & Developers Private Limited.
B-45, Shakti Apartments,
Sector-9, Rohini,
Delhi-110085

Kind att.: Mr. Rajesh Kumar/ Mr. Manav Chandra

Termination of agreement dated 15.01.08 and cancellation of Power of Attorney dated 20.03.08 of land measuring 7.2431 acers situated at sector 89 Faridabad under license no.34-36/2007

Sir,

1. M/s Triveni Ferrous Infrastructure Pvt. Ltd. along with Mr. Sumit Mittal and M/s Ferrous Alloys Forgings Pvt. Ltd. vide agreement dated 15.01.2008 agreed to transfer development rights in land measuring 7.2431 acers situated at sector 89 Faridabad, Haryana, in your favour subject to certain conditions as contemplated in the said agreement. Further, a registered power of attorney dated 20.03.08 was also executed by M/s Triveni Ferrous Infrastructure Pvt. Ltd. & M/s Ferrous Alloys Forgings Pvt. Ltd. in your favour in furtherance of the agreement dated 15.01.08.

2. The agreement dated 15.01.08 provides that for all intents and purposes the M/s Triveni Ferrous Infrastructure Pvt. Ltd. is the owner of the entire said land and Mr. Sumit Mittal & M/s Ferrous Alloys Forgings Pvt. Ltd. have no rights therein.

3. The clause 5.2 of the agreement dated 15.01.08 provides that in case any of the post-dated cheques, handed over by you to M/s Triveni Ferrous Infrastructure Pvt. Ltd. for payment of consideration under the agreement, got dishonoured for any reason whatsoever then upon such dishonour of cheque, the agreement dated 15.01.08 shall automatically stand terminated.

4. The post-dated cheques, handed over by you to M/s Triveni Ferrous Infrastructure Pvt. Ltd., under the agreement dated 15.01.08 got disnonoured on presentation.

5. Due to dishonour of post-dated cheques, the agreement dated 15.01.08 stand automatically terminated, in terms of clause 5.2 of the agreement.

6. In terms of the clause 5.3 of the agreement, you are under an obligation to hand over the original copies of the Agreement and Power of Attorney for destruction within 48 hours from such dishonour of cheque.

7. Today, the Power of Attorney dated 20.03.08 is also cancelled by the registered cancellation deed dated 17.06.09.

8. There has been no construction activity going on the site since long, and there is no guard or labour of yours at the site/ land. You have already abandoned the site. M/s Triveni Ferrous Infrastructure Pvt. Ltd. has already taken possession of the site and accordingly, has placed our guards and labour on the site. You are accordingly advised not to enter the site henceforth.

9. As the agreement dated 15.01.08 has already stand terminated automatically. leaving no right in your favour in the land and construction, we request you to hand over the original documents l.e. Agreement dated 15.01.2008 and already cancelled original GPA dated 20.03.2008. Post handing over of the original documents for destruction, please collect the Cheque of Rs.36,58,03,759/-after deduction of 10% forfeiture of the total contractual amount) from our office within 7 days from today.

Regards

Authorised Representative

M/s Triveni Ferrous infrastructure Pvt. Ltd."

18. The letter does not indicate as to what means it was sent and served on the Corporate Debtor, however, at Page 214 of the paper book,

Appellant has also filed a receipt of a private courier dated 17.06.2021. According to own case of the Appellant, the letter could be filed only in 2024 along with Affidavit dated 19.07.2024 of the Appellant prior to which it was untraceable. As noted above, there has been various proceedings including proceedings before the Hon'ble Supreme Court, RERA Haryana and Directorate of Town and Country Planning, Haryana. The proceedings which were before the initiation of CIRP are relevant to look into for coming to conclusion as to whether development rights in favour of the Corporate Debtor was terminated by the Appellant as claimed by letter dated 17.06.2009. The first proceeding which took place is the proceeding before the Hon'ble Supreme Court in Writ Petition (Criminal) No.05 of 2015- *"Ashish Seth vs. Government of NCT of Delhi & Ors."*. Copy of the judgment in the Writ Petition has been part of the record. As noted above, disputes between Seth Group and Mittal Group arose with regard to liability of payments which also included dispute pertaining to the License Nos.34, 35 and 36 obtained by the owners for group housing residential colony. The judgment of the Hon'ble Supreme Court dated 05.05.2015 notices that the Hon'ble Supreme Court had appointed Hon'ble Justice R.V. Raveendran, Former Judge of the Hon'ble Supreme Court to mediate the dispute between the parties. Justice R.V. Raveendran held various meetings between the parties and as consequence of which parties entered into settlement dated 04.05.2015 to settle all disputes between the parties including the issues with regard to License Nos.34, 35 and 36 of 2007. It is relevant to notice that in the Supreme Court proceeding, all issues and dispute between the parties

had surfaced including grant of development rights to the Corporate Debtor. We need to notice certain relevant terms of Memorandum of Settlement between the parties which have clear reflection on the development rights which was granted to the Corporate Debtor. In paragraph 1.2.1 of the MoS notices the liability of 59.05 Crores towards Directorate of Town and Country Planning, Haryana in respect of License Nos.34, 35 and 36 of 2007. Both the parties had undertaken to share the liability. Clause 1.3 also require payment of license fee to the Directorate of Town and Country Planning, Haryana as detailed therein. Paragraph 2 of the MoS mentioned that the amount to be paid by Seth Group towards license fee also includes the liability of Seth Group and also on behalf of M/s. Pal Infrastructure & Developer Pvt. Ltd., M/s. ORS Infrastructure Pvt. Ltd. and M/s. Heritage Cottages Pvt. Ltd. Similarly, the said liability will also be borne by the Mittal Group towards the above three companies. Paragraph 2 of the MoS is as follows:-

> *"2. The amount to be paid by Seth Group towards License Fee under Clause 1.3 and the Bank Guarantee to be furnished by Seth Group towards IDW, under Clause 1.4 above, includes not only the liability of Seth Group in that behalf, but also that of M/s Pal Infrastructure & Developer Pvt. Ltd. (for short "Pal"), M/s ORS Infrastructure Pvt. Ltd. (for short "ORS") and M/s Heritage Cottages Pvt. Ltd. (for short "Heritage") to the extent of Rs.53,11,000/-(approx.) towards license fee liability and Rs.1,69,83,000/- (approx.) towards IDW Bank Guarantee amount. Mittal Group have also similarly borne part of the liability of Pal, ORS ORS and Heritage. As and when, Pal, ORS and Heritage, contribute*

their share of the License Fee and furnish their Bank Guarantee for the IDW amount, the Seth Group and Mittal Group will be entitled to the refund of the excess License Fee paid by them and also for restriction of the IDW Bank Guarantee to the amounts actually due by them, by substituting/ replacing the Bank Guarantees of Seth Group and Mittal Group by the Bank Guarantees of Pal, ORS and Heritage. In the event of Pal, ORS and Heritage fail or neglect to pay the amounts due by them as aforesaid within 120 days from the date of deposit by the Seth Group, the Seth Group is authorized in its own name, to initiate appropriate legal proceedings against the defaulter/s, to the extent of the amount advanced by Seth Group along with interest, and/or in respect of Bank Guarantees so furnished, as stated herein before."

19. The above clause in which both the groups clearly undertook to pay license liability on behalf of the Corporate Debtor also clearly indicate that there was no case set up at that stage that development right in favour of the Corporate Debtor has been terminated. There is one more clause i.e. clause 15 of the MoS which entitles the TFIPL to termination and cancellation of their agreements if the Corporate Debtor and other two companies M/s. ORS Infrastructure Pvt. Ltd. and M/s. Heritage Cottages Pvt. Ltd. failed to provide requisite information as required by DTCP, Haryana and failed to pay their dues of TFIPL against their respective agreements and to pay the dues of Mittal and Seth Groups as paid by them on behalf of M/s. Pal Infrastructure & Developer Pvt. Ltd. and M/s. Heritage Cottages Pvt. Ltd. Clause 15 of the MoS is as follows:-

> *“15. TFIPL is entitled in accordance with law to take all actions against PAL, ORS and Heritage including termination and cancelation of their respective Agreements to Sell and Power of Attorney in accordance with law, if they fail to provide requisite information to TFIPL, as required by DTCP, Haryana under license No. 34, 35 & 36 of 2007; pay the dues of TFIPL against their respective agreements; to pay the dues of Mittal Group and Seth Group as paid by them on behalf of PAL, ORS and Heritage under this Memorandum of Settlement for renewal of license.”*

20. The said clause clearly recognizes continuance of development agreement with the Corporate Debtor, ORS and Heritage and right was given to terminate those agreements if PAL, ORS and Heritage failed to provide information and to pay the dues which are paid by Mittal and Seth Groups on their behalf. The above clause leaves no room for doubt that no case was set up by the Mittal and Seth Groups that development agreement has been terminated. Had the development agreement was terminated? There was no question of paying any amount to DTCP and giving liberty to company to terminate the agreement.

21. MoS under heading (G) ‘renewal of license’ provided steps for renewal of license nos.34, 35 and 36 of 2007. Clause 18 under heading (G) required Mittal Group to submit an application for renewal and pay all charges levelled and payable by PAL, ORS and Heritage for renewal of license. Clause 18 is as follows:-

"18. On application made for renewal of license in terms of clause 17, Mittal Group will secure renewal of administrative license within 90 days. All and miscellaneous charges, compounding fee, penalties and other charges levied and payable by PAL, ORS and Heritage for renewal of license shall be paid by the Mittal Group. All such charges in respect of FIPL agreement shall be exclusively paid/borne by Seth Group by similarly paying to TFIPL immediately on being demanded."

22. The above clearly indicate that at the stage when parties entered into MoS, no claim was set up that Development Agreement of the Corporate Debtor has been terminated. Various clauses as noted above, clearly indicate that conditions were contemplated since Development Agreement was treated to be continuing. We may also refer to one clause i.e. Clause 32 of the MoS on which reliance has been placed before the Hon'ble Supreme Court. Cancellation Deed dated 17.06.2009 was mentioned by Seth Group. Clause 32 is as follows:-

"32. The Seth Group confirms that the GPA executed in favour of PAL stands cancelled vide Cancellation. Deed dated 17.06.2009, executed by Seth Group acting on behalf of TFIPL and FAFPL."

23. At this stage, we need to notice the Cancellation Deed dated 17.06.2009 as claimed by the Appellant. By the said Cancellation Deed which was cancellation of earlier PoA executed on 20.03.2008 on behalf of M/s. Triveni Ferrous Infrastructure Pvt. Ltd. and M/s. Ferrous Alloys Forgings Pvt. Ltd. It is relevant to notice the Cancellation Deed dated

17.06.2009 which has been filed by the Appellant as Annexure A-7 to the Appeal. The above Deed only states that earlier PoA dated 20.03.2008 executed in favour of Mr. Rajesh Kumar is being cancelled. Cancellation Deed does not even mentioned termination of Development Agreement. Learned Counsel for the Resolution Professional submitted that Clause 32 as noted above, only notices that Seth Group has confirmed that deed executed in favour of PAL stand cancelled by Cancellation Deed dated 17.06.2009 executed by Seth Group acting on behalf of TFIPL and FAFPL. The above statement was made on behalf of Seth Group and which statement need to be read along with Clause 35. Clause 35 reads as follows:-

> *"35. In view of the aforesaid settlement, Mr. Surender Seth will no longer be the nominated approving authority under the Agreements entered by TFIPL, FAFPL and Mr. Sumit Mittal with PAL, ORS and Heritage. TFIPL, FAFPL and Mr. Sumit Mittal shall inform PAL, ORS and Heritage about the said change in the approving authority."*

24. The above clearly mentioned that Mr. Surender Seth will no longer be the nominated approving authority under the Agreements entered by TFIPL, FAFPL and Mr. Sumit Mittal with PAL, ORS and Heritage and that was only with respect to the change of the approving authority. The above clauses 32 and 35 when read together clearly means that what Seth Group informed that they having cancelled the GPA on 17.06.2009, they are no longer approving authority with regard to contract entered between

the owners and PAL. We further noticed that the above clauses of MoS has been made part of the order of the Hon'ble Supreme Court. The Hon'ble Supreme Court after noticing all relevant clauses of the MoS has held as follows:-

> *"We have recorded the settlement in entirety as that has to become a part of the order of this Court and it is so directed. The parties are directed to adhere to the terms and conditions of the Settlement and the undertakings given therein and every facet of it, needless to say, shall tantamount to an order of this Court. In case of failure, the parties are at liberty to move this Court for appropriate direction."*

25. The conclusion is inescapable that both the parties in proceeding before the Hon'ble Supreme Court and in the MoS which was entered between the parties treated Development Agreement being continuing and there was no reference made of cancellation of Development Agreement executed in favour of PAL rather liberty was given to the company to cancel if the Corporate Debtor failed to pay its dues towards Mittal and Seth Group and failed to provide any information which we have already noticed above in Clause 15 which clearly indicate that both parties treated the Development Agreement to be continuing. It is relevant to notice that after the order dated 05.05.2015, contempt proceedings were initiated by both the groups against each other before the Hon'ble Supreme Court for violation of order dated 05.05.2015 and in which contempt proceedings being Contempt Petition (C) No.34 of 2016, order was passed by the Hon'ble Supreme Court on 24.04.2020. The Hon'ble

Supreme Court in the above order dated 24.04.2020 had itself noticed the relevant facts and recorded the agreement between the parties that both the parties agreed that the development in the said land be divided and carried out separately and the development rights in Sector 89 land area of 48.03 acres. The Hon'ble Supreme Court had noticed that the Corporate Debtor was given development rights on land 10.48 acres. It is useful to notice paragraphs 2.1 and 2.2 of the order passed by the Hon'ble Supreme Court which are as follows:-

> *"2. The facts leading to the present contempt petitions in nutshell are as under:*
>
> *That one Triveni Ferrous Infrastructure Private Limited (hereinafter referred to as 'TFIPL') was a joint venture company constituted of two groups – one being the Seth Group [consisting of Mr. Surrender Seth, Mr. Ashish Seth, M/s Ferrous Forging Ltd., M/s Ferrous Alloys Forging Pvt. Ltd. (FAFPL), M/s Ferrous Township Pvt. Ltd. (FTPL) and M/s Ferrous Infrastructure Pvt. Ltd. (FIPL)] and the second being the Mittal Group [consisting of Mr. Sumit Mittal and Mr. Madhur Mittal].*
>
> *2.1 That TIFPL acquired some land at Sector 70 and some 48.05 acres of land at Sector 89, Faridabad. The said TIFPL also availed licences Nos. 34, 35 and 36 from competent authorities in the year 2007 in respect of the land bearing Sector 89 with an intent to develop the said Sector 89 land. Subsequently both the parties being Seth Group and Mittal Group agreed that the development in the said land be divided and carried out separately and thereupon the development rights in Sector 89 land, parcel of 48.03 acres of land belonging to TIFPL, was sold in the following manner:*

TFIPL 48.03 acres

⇓

TIDCO (in liquidation 14.80 acres (Mittal Group)	ORS Limited 5.5 acres (third party)	FIPL 14.80 acres (Seth Group) Ferrous City Project	Heritage 2.8 acres (third party)	Pal Infrastructure 10.48 acres (third party)

26. In the above order, it is also relevant to notice that after hearing both the parties, the Hon'ble Supreme Court has noticed the submissions advanced by the Appellant i.e. Maximal Infrastructure Pvt. Ltd. Submission which has been noticed in paragraph 6.4 by Maximal Infrastructure Pvt. Ltd. was that licensees are left with no interest in the project land. They have divested of their right, title and interest in 48.08 acres way back in the year 2007-2008. Paragraph 6.4 of the order is as follows:-

> *"6.4 It is submitted that even otherwise the Maximal has no financial ability to pay any amounts. Maximal and other licensee divested of their right, title and interest in 48.08 acres way back in the year 2007-2008. The licensees are left with no interest in the project land. TIDCO is one of the project developers and has beneficial interest in part of the project land. Maximal as well as the Mittal Group have nowhere agreed to pay the amounts for and on behalf of the TIDCO being the beneficial owner of the project land."*

27. The above submission which has been made in the year 2020 by the Appellant himself before the Hon'ble Supreme Court clearly indicate that they have divested their right and no submission was even made that Development Agreement in favour of PAL, ORS and Corporate Debtor has been cancelled. In the above case, the Hon'ble Supreme Court have come to the conclusion that Mittal Group has deliberately and willfully not fulfilled their obligations as per Clause 4.5.15 of the MoS. In paragraph 10 of the order, following was held:-

> *"10. Having heard the learned counsel for the respective parties and considering the material on record, we are of the opinion that the respondent Mittal Group in Contempt Petition No. 34 of 2016 have deliberately and willfully not fulfilled their obligations which they are required to fulfill under the MoS dated 04.05.2015 and as such they have rendered themselves liable for the action under the Contempt of Courts Act. However, before taking any further action, we propose to give further two months' time to the respondents, namely, Shri Sumit Mittal, Shri Mathur Mittal and TFIPL to fulfill their part of obligations under the MoS dated 04.05.2015, more particularly,*
> *(i) To pay the entire EDC liability of TFIPL with interest in relation to license Nos. 34, 35 and 36 other than the share of the EDC liability which the Seth Group has undertaken to pay as per Clause 1.2 of the MoS;*
>
> *(ii) As per Clause 1.2, EDC liability of the Seth Group is to the extent of Rs.25,27,92,000/-, out of the total EDC liability of TFIPL in relation License Nos. 34, 35 and 36 as on 24.03.2015 together with interest accrued thereon*

from 24.03.2015. Therefore, the Seth Group shall make the entire payment of Rs.25,27,92,000/- along with the interest accrued thereon from 24.03.2015 towards their EDC liability in respect of License Nos. 34, 35 and 36 of 2007;

(iii) The Mittal Group is hereby further directed to renew the license Nos. 34, 35 and 36 of 2007; to execute GPA by TFIPL (as per Clause 5.3), Board Resolution by TFIPL for availing benefit under EDC Relief Policy (as per Clause 1.2.1), NOC without any conditions (as per Clause 8) to the Seth Group.

(iv) Thereafter, the DTCP to bifurcate the Seth Group's portion of the land in accordance with law and as per the policy and/or the rules and regulations, if any. It is also observed that it will be open to the respective parties to avail the benefit of the applicable EDC Relief Policy, which may be considered by the DTCP in accordance with the applicable EDC Relief Policy, if any.
10.1 The aforesaid entire exercise shall be completed within a period of two months from the date of lifting of lockdown in the concerned area, failing which, as observed hereinabove, this Court shall proceed to pass appropriate further order/orders under the Contempt of Courts Act for non-fulfillment of the obligations by the respondents – Shri Sumit Mittal, Shri Madhur Mittal and TFIPL. As observed hereinabove, this Court has deferred to pass further orders against the contemnors - Mittal Group and TFIPL to enable them to give them further opportunity."

28. The above order of the Hon'ble Supreme Court passed in the year 2020 itself indicate that before the Hon'ble Supreme Court, Appellant has again and again pleaded that they have divested with all their right, title and interest in the year 2007-2008. Had the Development Agreement was cancelled, the right could have reverted back to the Appellant and they would have so pleaded.

29. We are of the view that in proceeding before the Hon'ble Supreme Court, it was not even pleaded by Mittal Group that Development Agreement in favour of Corporate Debtor has been cancelled and Corporate Debtor has no right and title rather conversely the condition of MoS and subsequent order passed by the Hon'ble Supreme Court on 24.04.2020, as noted above, clearly indicate that Mittal Group was pleading that they have divested with all rights and they have no right in the subject land in question.

30. Now we come to the proceedings before Haryana RERA. The order of Haryana RERA passed in different complaints filed before the Haryana RERA, Panchkula dated 01.10.2019 is relevant which order has also noticed its earlier order passed on 02.09.2019 wherein paragraph 9 RERA authority has noticed that licensee companies have disposed of all the lands of the project to five developer companies and they retain no further interest in it and bifurcation of the license in favour of five developer companies would logically lead to separate determination of the liabilities. The name of five developer companies was mentioned in the said order. Paragraph 9 (a), (b) and (c) of the earlier order is as follows:-

"While adjourning the matter for hearing arguments of M/s Maximal Infrastructure Pvt Ltd, the Authority would reiterate its line of thought that a solution to this complex problem can be found only by adopting the following step-wise approach:

a) That Town and Country Planning Department should realise its own responsibility for getting the projects completed because it is by virtue of the license granted by them that the projects have come into existence. Further the conditions of license, the provisions of the Haryana the Urban Development Act and Rules framed there-under obliges the department to take all steps necessary for monitoring the progress of projects and getting it completed. The Town and Country Planning Department has to adopt a pro-active approach in such matters. This approach is necessary for protecting the interests of thousands of allottees who have invested their hard-earned money on the basis of the licence granted by the State Government. The department shall be well advised to visit the sites of the project again and decide whether the development works are being carried out in accordance with law. The Local Commissioner of the Authority has pointed out several defects and violations. Those also should be appropriately taken into account.

(b) Since the main licensee companies have disposed of all the lands of the project to five developer companies and they retain no further interest in it, either such an action on the part of the licensee company should have been stopped and prohibited well within time by the Town & Country Planning Department in the year 2008 itself, or now they

have to appreciate the ground level realities and decide to bifurcate the license in favour of the five developer companies in the interest of thousands of allottees. Without this bifurcation of license nothing can move further.

(c) Bifurcation of the license in favour of five developer companies would logically lead to separate determination of the liabilities of each of the developer companies towards the State Government. The liabilities on account of overdue license fee, EDC, IDC, penal interest and other charges will have to be and should be separately determined in respect of each of the developer Since principal companies by the department. responsibility for not acting in contravention of the conditions of license was that of the licensee company Town and Country Planning Department should credit the EDC/IDC and other duties received from the license in favour of four developers only, namely M/s Ferrous Infrastructure; M/s ORS; M/s Heritage Cottage and M/s Pal Infrastructure. No credit deserves to be given to M/s TIDCO because that company is in liquidation before the NCLT. The amounts of EDC/IDC due from TIDCO may be claimed from the Resolution Professional and the Official Liquidator as the case may be."

31. By order dated 01.10.2019, RERA Authority directed for renewal of license. It was also noticed that original licencee company may not co-operate with the developers for this purpose. In paragraph 4(xi), following was observed:-

“(xi) In above terms the captioned complaints are disposed of. All the parties should immediately file independent applications with the Town & Country Planning Department for division of license as per orders of the Authority. The original licencee company may not cooperate with the developers for this purpose. The Town & Country Planning Department should consider their consent as having been granted. They should take a decision for division of the license. regardless of approval of the licensee company, within a period of 60 days.”

32. An earlier order of the RERA Authority dated 20.06.2019 also need to be noticed where RERA Authority in paragraph 3 has noted that the licensee has transferred to the developer companies and they are left with no right. It is relevant to notice paragraph 3 which is as follows:-

“3. The Authority observes that by virtue of five agreements made with the five different developer companies, development rights in respect of land measuring 33.37 acres, which represents development and FAR rights equivalent to 48.038 acres, have been transferred to the developer companies. It is correct that no right is left with the licensee company for development of apartments or housing complexes in any portion of the project. However, after accounting for 33.37 acres land, the land measuring 14.668 acres remains in the possession of the licensee-respondent company over which the development has to be done by them in accordance with the layout plan approved by the department. Further,

common facilities like schools, dispensary, community centre etc. has to be developed on the remaining land. It is noteworthy that buildings of the schools, community centres etc. are not included in the overall FAR of the colony. It is also noteworthy that the responsibility for development of the entire colony in accordance with the conditions of the license will remain a joint responsibility of the licensee and the five developer companies. A harmonious reading of the agreements made with five developer companies and the conditions of the license would unmistakable lead to a conclusion that while development of the housing colonies in the areas allocated to respective five companies should be done by the five developers companies, the infrastructure development works in the remaining area shall be executed by the licensee company itself, unless indicated otherwise in the respective agreement made with the developing companies."

33. The above clearly indicate that RERA Authority was of the view that development has to be done by the developer companies.

34. We also need to notice the order passed by Directorate of Town and Country Planning, Government of Haryana. The Directorate of Town and Country Planning, Haryana in its order dated 30.09.2019 has observed that licensee has transferred development and marketing rights without prior permission of the Department which included PAL also. We also need to notice one of the order of the Haryana RERA passed on

02.05.2019 in a complaint against Triveni Ferrous Infrastructure in which Appellant appeared through Hari Mohan Gupta. The reply submitted by the Appellant has been noticed by the Haryana RERA in paragraphs 1 and 2. Paragraphs 1 and 2 of the order is as follows:-

"1. A reply has been received from Sh. Hari Mohan Gupta, Director of Triveni Infrastructure Pvt. Ltd. (now known as Maximal Infrastructure Pvt. Ltd.). It has been stated in the affidavit that License No. 34-36 of 2007 in respect of the project land measuring 48.038 was divided in five zones in 2007-2008. Each of the five zones were taken over by five independent companies by virtue of Joint Development Agreement. Respective share of each of the five companies is as follows : -

S. No.	*Name of the Company*	*Land area (Approx.)*	*Development FAR rights.*
1.	*M/s. Ferrous Infrastructure Pvt. Ltd.*	*10.270 acres*	*14.80 acres*
2.	*M/s. Triveni Infrastrucure Development Company Ltd.*	*10.335 acres*	*14.80 acres*
3.	*M/s. PAL Infrastructure & Developers Pvt. Ltd.*	*7.2431 acres*	*10.458 acres*
4.	*M/s. ORS Infrastructure Pvt. Ltd.*	*3.4568 acres*	*5.00 acres*
5.	*M/s. Heritage Cottages Pvt. Ltd.*	*2.0643 acres*	*2.98 acres*

2. It has further been stated by Shri Hari Mohan Gupta in his affidavit that no development rights are now available with M/s Triveni Ferrous Infrastructure Pvt. Ltd. (now known as Maximal Infrastructure Pvt. Ltd.). therefore, this notice is not maintainable against them."

35. The above clearly indicate that when notice issued by RERA Authority and Appellants was asked to submit reply, they have submitted the reply that five zones were taken over by five independent companies and Corporate Debtor was transferred 10.45 acres of land and it was stated on behalf of the Appellant that no development right is available with the Appellant i.e. Maximal Infrastructure Pvt. Ltd. The above order dated 02.05.2019 has brought on record by compilation filed on behalf of Resolution Professional. From the above, it is clear that both before Haryana RERA Authority and Directorate of Town and Country Planning, Haryana, the Appellant has never claimed or pleaded that the development rights given to the Corporate Debtor has been cancelled and thus, the said right is possessed with the Appellant rather contrary stand was taken by the Appellant that they do not have any development rights which have transferred to five developer companies and five developer companies have to now carry on development. Why the above stand was taken by the Appellant before Directorate of Town and Country Planning, Haryana, and RERA Authority, Haryana is not far to seek. Appellant was licensee who had taken license for development of group housing residential colony where certain FSI were also earmarked to the EWS under the Haryana Development and Regulation of Urban Areas Act, 1975. Licensee have various obligation including obligation to pay various charges. Licensee have also to transfer certain lands following in the master plan for road infrastructure etc. In the project after transferring the development rights in favour of the Corporate Debtor on 15.01.2008

Corporate Debtor had made allotment to various allottees who have deposited various substantial amount with the Corporate Debtor.

36. When a housing residential colony has come up with the sanction of development of town planning in pursuance of license granted, the licensee cannot escape its various statutory obligation of carrying development. The Appellant has conveniently before the RERA Authority and Directorate of Town and Country Planning submitted that they have transferred their development rights into the five development companies and it is the development companies who has to carry out development, which was only to save themselves from various statutory obligations and compliances and in the CIRP of the Corporate Debtor, the Appellant has taken contrary stand that they have cancelled the development rights on 17.06.2019 and there is no development rights in the Corporate Debtor and the asset is not part of the Corporate Debtor's asset and to be excluded. The stand taken by the Appellant is not only dishonest but clearly false and contrary to its stand before the Hon'ble Supreme Court, Haryana RERA Authority and Directorate of Town and Country Planning.

We, at this stage, also notice one more submission of the Appellant that when cheques given by the Corporate Debtor towards balance consideration were dishonoured their agreement automatically came to be cancelled without anything more required to be done by the owners. We have already noticed one of the Clauses of the Development Agreement i.e. Clause 5.2 which provide that in event post-dated cheques are dishonoured, agreement shall automatically be terminated and the

owners shall be liable to refund the amount received after forfeiting 10%. The Corporate Debtor had already paid Rs.417702029/-. After forfeiting 10%, rest 90% amount was to be refunded by the owners to the Corporate Debtor. It is admitted that no payments have been made by the owners/Appellant to the Corporate Debtor regarding consideration which was already received. Appellant has given two excuses for not making payment. Firstly, they said that in the letter dated 17.06.2009 they have asked the Corporate Debtor to come and collect the cheques and secondly, in the proceeding under Section 138, the directors of the Corporate Debtor were declared as absconded, hence, repayment could not have been made.

37. Both the above excuses have to be rejected which is without any basis. No satisfactory proof of letter dated 17.06.2009 has been filed and as noted above, the said letter came to see light of the day only on 17.06.2024 when Affidavit was filed by the Appellant bringing the letter on record. Obligation was of owners which cannot easily be washed by the Appellant. It is also a reason that Appellant having not returned the amount to the Corporate Debtor, they have not taken stand before the authorities that Development Agreement has been cancelled.

38. Now coming to the submission of the parties regarding construction on the project. Adjudicating Authority had passed an order asking both the parties to file an Affidavit bringing on relevant materials indicating whether any construction was made after 17.06.2009? Resolution Professional filed an Affidavit brought relevant materials on record.

Adjudicating Authority being satisfied and has noticed the Affidavit of the Resolution Professional that 70% of the total construction of the said project has been completed. Adjudicating Authority in paragraphs 21, 22 and 23 has made following observations:-

> *"21. For taking benefit of Clause 5.2 by the Applicant to state that the agreement has stands terminated, it is obligatory on their part to perform their obligation as stipulated in the same para. The Applicant along with their IA has not filed a copy of any communication sent by him to the Corporate Debtor intimating about the deemed termination of the agreement. The application was filed in the year 2021 and in the year 2024, the Applicant has now filed a copy of the communication stated to be sent by the Applicant to the Corporate Debtor intimating about deemed cancellation. Noting has brought to our record to indicate that the said communication was received by the Corporate Debtor. As stated above the Applicant has not performed their obligations contained in para 5.2 of the agreement (not refunding the amount to the Corporate Debtor). Further the report filed by the Court Commissioner before the Delhi High Court and the affidavit filed by the Resolution Professional in compliance of our order dated 25.04.2024, it emerges that certain construction activities have been undertaken in respect of the project even after the alleged deemed termination of the agreement. Therefore, it can be safely understood that parties have not acted in furtherance of alleged deemed termination of the agreement. Vide order dated 25.04.2024, parties*

were directed to file an affidavit indicating whether any construction activities took place on the land in question of the Applicant after 17.06.2009 and if so, by whom such construction was carried out. In compliance of this direction, parties have filed their respective affidavit.

22. In compliance of the order dated 25.04.2024, the Resolution Professional has filed an affidavit wherein in para 4 of the affidavit, the Resolution Professional has submitted that approximately 70% of total construction in the said project has been completed by the Corporate Debtor. Further, the Resolution Professional has also provided the details of the procurement of steel by order dated 16.03.2013, 16.01.2024 & 21.12.2013 intimated that the Corporate Debtor had ordered for construction material. Further, order for procurement of cement dated 31.07.2010, 18.09.2012 & 16.04.2013 and further detail of procurement of stone, procurement of plywood, procurement of bricks, procurement of electric items and procurement of machinery and other miscellaneous items have been filed. These purchase, orders were issued after the alleged date of termination of agreement and the copy of these purchase orders are made available with the said affidavit. Although the Applicant as in their affidavit has submitted that no construction activity has taken place on the instance of Corporate Debtor after the termination of the agreement, the Resolution Professional has submitted that even after the alleged deemed automatic termination of the agreement, Corporate

Debtor was allowed to do the construction work on the project site. The alleged termination of the Power of Attorney is also against the clause 4 of the Loan agreement which stipulates about irrevocable power of attorney.

23. In view of the above, it can be safely understood that parties have not acted in furtherance of alleged deemed termination of the agreement as provided in clause 5.2 of the Agreement."

39. Adjudicating Authority having come to the conclusion that constructions were made by the Corporate Debtor and the letter dated 17.06.2009 terminating the agreement was never acted upon. We fully concur with the aforesaid finding of the Adjudicating Authority.

40. In view of the above foregoing discussions, we answer Question Nos.(I) to (IV) in the following manner:-

(I) Development Rights in the subject land given to the Corporate Debtor were not terminated vide letter dated 17.06.2009 which letter was never claimed by the Appellant before Hon'ble Supreme Court proceedings before RERA and Directorate of Town and Country Planning prior to initiation of CIRP.

(II) In proceeding before the Hon'ble Supreme Court in Writ Petition (Criminal) No.5 of 2015, the termination of Development Agreement in favour of the Corporate Debtor was neither pleaded nor brought before the Hon'ble Supreme Court rather

terms of the MoS as noted by the order of the Hon'ble Supreme Court dated 05.05.2015 clearly indicate that development rights in favour of the Corporate Debtor was treated to be continuing on the date when the order was passed.

(III) Appellant before the Haryana RERA and DTCP has pleaded that it has transferred its development rights in favour of five developer companies including Corporate Debtor and it has divested itself from any right in the subject land.

(IV) The letter dated 17.06.2009 even if accepted for argument sake to have been issued by Triveni Ferrous (predecessor in interest of the Appellant), the said letter was never given effect to.

Question No.(V)

41. Learned Counsel for the Appellant has questioned the jurisdiction of the Adjudicating Authority to decide the question of development rights as claimed by the Corporate Debtor in the subject land. The law is well settled that the development rights which are claimed by the Corporate Debtor are assets of the Corporate Debtor. In ***"Victory Iron Works Ltd. vs. Jitendra Lohia and Anr- (2023) 7 SCC 227"***, the Hon'ble Supreme Court has laid down following in paragraphs 38 and 53:-

> *"**38.** From the sequence of events narrated above and the terms and conditions contained in the agreements entered into by the parties, it is more clear than a crystal that a bundle of rights and interests were created in favour of the corporate*

debtor, over the immovable property in question. The creation of these bundle of rights and interests was actually for a valid consideration. But for the payment of such consideration, Energy Properties would not even have become the owner of the property in dispute. Therefore, the development rights created in favour of the corporate debtor constitute "property" within the meaning of the expression under Section 3(27) IBC. At the cost of repetition, it must be recapitulated that the definition of the expression "property" under Section 3(27) includes "every description of interest, including present or future or vested or contingent interest arising out of or incidental to property". Since the expression "asset" in common parlance denotes "property of any kind", the bundle of rights that the corporate debtor has over the property in question would constitute "asset" within the meaning of Section 18(1)(f) and Section 25(2)(a) IBC.

***53.** Therefore, NCLT as well as NCLAT [Victory Iron Works Ltd. v. Jitendra Lohia, 2021 SCC OnLine NCLAT 128] were right in holding that the possession of the corporate debtor, of the property needs to be protected. This is why a direction under Regulation 30 had been issued to the local district administration."*

42. When the Corporate Debtor has development rights in the subject land which is the asset of the Corporate Debtor and central to the entire insolvency process and the question is raised before the Adjudicating Authority that the Corporate Debtor has development rights in the subject land, we fail to see lack of jurisdiction in the Adjudicating Authority to

consider the question when the development rights which are very assets on which entire insolvency of the Corporate Debtor revolves. The argument of the Appellant cannot be accepted that the Adjudicating Authority has no jurisdiction to consider the issue. We have already noticed while deciding Question Nos.(I) to (IV) that the Appellant has before the Hon'ble Supreme Court and before the RERA and Directorate of Town and Country Planning has taken the stand that the development rights with five development companies including the Corporate Debtor still continues. Appellant cannot take contradictory and dishonest plea before the Adjudicating Authority that the Corporate Debtor does not possess the development rights. Learned Counsel for the Appellant in support of his submission has placed reliance on judgment of the Hon'ble Supreme Court in ***"AA Estates Pvt. Ltd. vs. Kher Nagar Sukhsadan Co-operative Housing- (2025) SCC OnLine SC 3579"***. In the above case, the Appeal was filed against the judgment of the Division Bench of the Bombay High Court. In the above case, one of the questions before the High Court was as to whether termination of Development Agreement dated 16.10.2005 and Settlement Agreements dated 23.12.2005 and 09.04.2014 by the Society prior to initiation of second Corporate Insolvency was valid and effective in law. In paragraph 13 of the judgment, following questions were framed:-

> *"13. On the basis of the pleadings and the rival submissions, the following issues arise for consideration in this appeal:*

(i) Whether the termination of the Development Agreement dated 16.10.2005 and Supplementary Agreements dated 23.12.2005 and 09.04.2014 by Respondent No. 1 Society prior to the initiation of the second CIRP was valid and effective in law.

(ii) Whether the aforesaid Development Agreement and the Supplementary Agreements constitute "assets" or "property" of the corporate debtor so as to attract the protection of moratorium under Section 14 of the IBC.

(iii) Whether the High Court was justified in allowing the writ petition filed by Respondent No. 1 Society and directing the statutory authorities to process and grant approvals in favour of Respondent No.8 for redevelopment of the subject project.

(iv) Whether the proceedings before the High Court stood vitiated by violation of the principles of natural justice, as alleged by the appellants."

43. The Hon'ble Supreme Court in the above case held following in paragraph 15.4:-

"15.4. The termination was thus effected after due notice and prolonged default, and cannot be termed arbitrary or mala fide. The Society, being the owner of the property and guardian of the members' welfare, cannot be compelled to indefinitely await performance from a defaulting developer. The IBC is not intended to freeze urban welfare projects or protect commercial

indolence at the cost of citizens awaiting rehabilitation."

44. From the facts of the said case, Court found that the termination of agreement prior to initiation is valid. We have found that it was the case of the Appellant throughout before the Hon'ble Supreme Court and before the RERA and Directorate of Town and Country Planning, development rights still continues with the Corporate Debtor and we having held that the development rights continue with the Corporate Debtor, the above judgment in no manner supports the case of the Appellant in the facts of the present case.

45. The other judgment which has been relied by the Appellant is the judgment of the Hon'ble Supreme Court in ***"Gloster Ltd. vs. Gloster Cables Ltd. and Ors.- (2026) SCC OnLine SC 105"***. The question which arose in the above case was as to whether Adjudicating Authority has jurisdiction to declare on the aspect of title to the trade mark "Gloster". In paragraph 1 of the judgment, the following issue has been noticed:-

"1. These two appeals arise from the judgment of the National Company Law Appellate Tribunal [for short "NCLAT"], Principal Bench, New Delhi dated 25.01.2024 in Company Appeal (AT) (Ins.) No. 1343 of 2019. While Civil Appeal No. 2996 of 2024 is filed by Gloster Limited – the Successful Resolution Applicant (hereinafter called the "SRA"), Civil Appeal No. 4493 of 2024 is filed by Respondent No.1-Gloster Cables Limited (hereinafter called "GCL"), challenging the findings in the impugned

judgment insofar as it held that the Adjudicating Authority had the jurisdiction to declare on the aspect of title to the trademark "Gloster".

46. The Hon'ble Supreme Court held that the Adjudicating Authority cannot exercise jurisdiction over matters dehors the insolvency proceedings. In paragraph 29, following was held:-

> *"29. This Court clarified that the validity of the exercise of the residuary power was being adjudged in the case, on the facts obtaining thereon and that they were not laying down a general principle on the contours of the exercise of residuary power by the Adjudicating Authority. It was further reiterated emphatically that the Adjudicating Authority cannot exercise its jurisdiction over matters dehors the insolvency proceedings since such matters fall outside the realm of IBC."*

47. The Hon'ble Supreme Court ultimately in paragraph 50 has held as follows:-

> *"50. We make it clear that the observations made hereinabove are only for the purpose of setting aside the finding of the Adjudicating Authority holding that the trademark "Gloster" is the asset of the Corporate Debtor as recorded in para 52 of its order dated 27.09.2019. These observations would not come in the way of any other Court or authority deciding the issue of*

title to the trademark "Gloster", if the parties herein litigate upon and those proceedings will be decided on their own merits uninfluenced by these observations."

48. The question whether Corporate Debtor has right of trade mark 'Gloster' was held not within the domain of the Adjudicating Authority. The said judgment does not come to the aid of the Appellant in the facts of the present case where the development rights on the project land was granted by the owners and still continues with the Corporate Debtor as noted and held above.

49. We, thus, hold that the Adjudicating Authority has ample jurisdiction to consider and decide the question of development rights as claimed by the Corporate Debtor on the subject land. Cancellation of development right by letter dated 17.06.2009 has already been considered and answered in above paragraphs.

Question No.(VI)

50. Adjudicating Authority having found that the development rights in favour of the Corporate Debtor continues with the Corporate Debtor, no error has been committed by the Adjudicating Authority in rejecting IA No.2729 of 2021 filed by the Appellant to exclude the subject property from the CIRP of the Corporate Debtor. The subject property i.e. project which was initiated by the Corporate Debtor was booked by hundreds of homebuyers and hundreds of crores was paid to the Corporate Debtor by more than 600 allottees. The allottees who have also filed an application

for intervention in this Appeal are waiting for their units to be delivered for more than a decade. Adjudicating Authority after considering all relevant facts and circumstances has rejected the IA No.2729 of 2021. We do not find any error in the order of the Adjudicating Authority rejecting IA No.2729 of 2021. Question No.(VI) is answered as follows:-

51. Adjudicating Authority has committed no error in not accepting the prayer of the Appellant in IA No.2729 of 2021 to exclude the project and Appellants' property from CIRP of the Corporate Debtor.

Question No.(VII)

52. We have noted above that Parcela Real Estate Pvt. Ltd. itself has filed an IA No.749 & 750 of 2026 in this Appeal seeking intervention and praying for setting aside the impugned order. In the application, applicant has come up with the case that Applicant had purchased the marketing and development rights in the subject land measuring 7.2431 acres on 26.11.2022. It is useful to notice paragraph 4 (i) to (o):-

> *"I. On 26.11.2022, Parcela/ Applicant purchased the marketing and development right in the subject land measuring 7.2431 acres from Maximal under the License No. 34,35,36 of 2007 situated at Sector 89, Faridabad, by way of registered agreement.*
>
> *J. On 30.11.2022, registered Special Power of Attorney was also executed by Maximal in favour of Parcela, in relation to the subject land. After getting the rights in the subject land Parcela took the physical possession of the land and started the*

construction at site. The copy of the registered agreement dated 26.11.2022 and copy of SPA dated 30.11.2022 executed by Maximal in favour of Parcela is annexed herewith as ANNEXURE A9(Colly).

K. On 16.11.2023, Parcela applied for the change of beneficial interest before Ld. DTCP, Haryana and the DTPC transferred / allowed the change of beneficial interest in favour of PARCELA as per the guidelines as per HUDA vide Memo/ Letter dated 16.11.2023. The copy of change of beneficial interest order dated 16.11.2023 in relation to subject land in favour of Parcela is annexed herewith as ANNEXURE A10.

L. On 01.03.2024, Grant of beneficial right by DTCP vide Memo dated 16.11.2023 in favour of PARCELA, was challenged by Pal Garden Allotee Association by filing I.A No. 1379 of 2024, before the Ld. NCLT and notice was issued vide order dated 18.03.24, and the same is pending adjudication till today. The copy of IA no.1379/2024 filed before Ld. NCLT, Delhi is annexed herewith as ANNEXURE A11. The copy of the order dated 18.03.2024 issuing notice on the said IA no.1379/2024 is annexed herewith as ANNEXURE A12.

M. On 15.04.2024, the RP also challenged the memo dated 16.11.2023 issued by the DTCP in favour of PARCELA by filing I.A No. 2764 of 2024. There is no notice issued by the NCLT and the same is pending for adjudication till today. The

copy of IA no.2764/2024 filed by RP before Ld. NCLT is annexed herewith as ANNEXURE A13. It is also relevant to mentioned here that the RP as well as the Association both are guilty of forum shopping.

N. Accordingly, the Ld. NCLT was also made aware that the applicant is the beneficiary of the subject land and is also the rightful owner of the beneficial interest in the license to develop the project on the subject land.

O. On 17.05.2024, RP challenged the transfer of beneficial right granted to PARCELA by the DTCP vide memo dated 16.11.2023, before the Hon'ble Punjab and Haryana High Court by way of CWP 12865 of 2024 and the same was dismissed vide order dated 03.07.2024. The copy of the CWP No.12865/2024 is annexed herewith as ANNEXURE A14. The copy of the order dated 03.07.2024 passed in CWP 12865 of 2024 is annexed herewith as ANNEXURE A15."

53. We having held that the Corporate Debtor has development rights in the subject land and CIRP against the Corporate Debtor having commenced on 05.09.2019. Moratorium under Section 14 has been kicked in. We having already held that the Corporate Debtor has development rights which rights could not have been dealt with by the Appellant by virtue of Section 14(1)(b) prohibits the Corporate Debtor to alienate or dispose of its assets, when the Corporate Debtor itself is prohibited, we are of the view that there is no right in the Appellant to

transfer the development rights in favour of Parcela Real Estate Pvt. Ltd. on 26.11.2022. It is relevant to notice that Appellant itself has filed an application IA No.2729 of 2021 before the Adjudicating Authority for seeking exclusion of the subject land from the CIRP of the Corporate Debtor which application came to be dismissed only on 05.06.2025. Appellant itself having raised the issue and which issue remains pending before the Adjudicating Authority, we fail to see any justification and jurisdiction of the Appellant to transfer the development rights on 26.11.2022. Transfer of development rights in favour of Parcela Real Estate Pvt. Ltd. is wholly without jurisdiction and *non-est* in law. We having held that the transfer of development rights being without jurisdiction and *non-est*, all actions taken thereon has no validity in law. Question No.(VII) is answered in following manner:-

Appellant has no right or jurisdiction to transfer the development rights in the subject land measuring 7.2431 to Parcela Real Estate Pvt. Ltd. on 26.11.2022. Transfer of development rights has no legal consequence. It is void and *non-est*.

54. In view of our foregoing discussions and conclusions, we decide both the Appeals in following manner:-

(I) Company Appeal (AT) (Insolvency) Nos.987 and 989 of 2025 praying for setting aside the order dated 05.06.2025 in IA No.2729 of 2021 & IA No. 5134 of 2020 are dismissed.

(II) There being interim order operating in this Appeal as well as under the order of the Adjudicating Authority dated 15.12.2020, no steps could be taken regarding finalisation of the Resolution Plan, certain consequential orders are necessary to be passed in the interest of all stakeholders.

(III) We, while dismissing these Appeals, issue following directions:-

(a) The period from 15.12.2020 on which date Adjudicating Authority directed the Resolution Professional not to proceed with the Resolution Plan, and in view of the interim order passed by this Tribunal on 10.07.2025 that no publication of Form G shall be made, we exclude entire period from 15.12.2020 till date of passing of this judgment from the CIRP of the Corporate Debtor.

(b) The subject land having been held the asset of Corporate Debtor, the Resolution Professional to take control, maintain and protect the subject asset.

(c) The Resolution Professional to proceed with publication of Form G forthwith and complete the process regarding Resolution Plan within 90 days from today.

(IV) We having noticed the actions and conduct of the Appellant that Appellant before the Hon'ble Supreme Court and other authorities have been stating that development rights have been transferred in favour of the Corporate Debtor and has never claimed termination of development agreement before

the said authority whereas in the CIRP of the Corporate Debtor has been contending that Development Agreement has been cancelled due to which the CIRP against the Corporate Debtor could not proceed and remain standstill for almost five years. The allottees of the project are waiting for receiving their possession of the units for more than a decade. Appellant is liable to be saddled with a cost of Rs.25 Lakhs to be paid in the CIRP account of the Corporate Debtor within 30 days from today which will be utilized for the CIRP of the Corporate Debtor.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

20th April, 2026

Anjali/Ashwani