

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 869 of 2026

in

Company Appeal (AT) (Insolvency) No. 767 of 2025

IN THE MATTER OF:

Mehul Harish Gosar

...Appellant

Versus

Athena Constructions Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr.Apoorv Shukla, Mr. Prerak Sharma, Mr. Prabhleen A. Shukla and Mr. Pradymna Tyagi Advocates.

For Respondents : Ms. Honey Satpal, Mr. Praadyuman Tyagi, Mr. Akash Agarwalla and Mr. Aman, Advocates for Applicant in I.A No. 869 of 2026.

ORDER
(Hybrid Mode)

06.04.2026: This application has been taken out by the Financial Creditor (FC)/ Respondent in *Comp. App. (AT) (Ins.) No. 767 of 2025*, seeking certain clarification to the order dated 13.10.2025.

2. In the *Comp. App. (AT) (Ins.) No. 767 of 2025* was filed by one of the partners of the Corporate Debtor (CD), which is an LLP, challenging the order of the Adjudicating Authority admitting the partnership firm to CIRP.

3. During the pendency of this appeal, a settlement was entered into between the parties on 21.08.2025. In these circumstances, this Tribunal passed the following order:

“...2. Shri Krishnendu Datta, the learned Senior Counsel for the appellant submitted that even on 14.02.2025, the appellant had informed the

Adjudicating Authority that the issue is likely to be settled. Indeed on 19.03.2025, accommodation was sought for filing the Reply. The learned Counsel added that as of now, the appellant had fully settled the Financial Creditor who initiated the CIRP. Placing reliance on Abhishek Singh, Suspended Director of Manpasand Beverages Ltd. v. Yoginkumar Ashokbhai Patel & another in [Company Appeal (AT) (Ins) No.1863 of 2024], the learned Counsel submitted that this Tribunal may set aside the Order and record settlement of the case and close the Order admitting the CIRP.

3. The learned Counsel for the respondents/Financial Creditors submitted that their dues have been settled.

4. There are two aspects to this Appeal: (a) That whether CIRP may have to be closed as was done in CA 1863 of 2024; (b) and if it is not so closed, what should be the Order on merit.

5. So far as the second question is concerned, on perusing the papers, we are of the opinion that the appellant in effect had not been heard on merits and deserves an opportunity. Necessarily the Order of the Adjudicating Authority may have to be set aside. The next issue is should this Tribunal record the settlement between the parties and terminate the CIRP, since, with our decision to set aside the Order of the Adjudicating Authority, the case is relegated to a stage prior to the admission of the CD to CIRP.

6. Since, the CIRP has commenced, it is conceivable that the IRP might have received some claims, and hence those claims, if any, cannot be ignored. Then it will may well be a case where the it may have to be decided how to go about the matter in the light of the

ratio in Glas Trust Company. LLC Vs Byju Raveendran & Others [(2025)3 SCC 625] Therefore, it would only be appropriate that the matter is remanded back to the Adjudicating Authority to deal with the issue of settlement as per law.

7. In conclusion, the Appeal is allowed and the Order of the Adjudicating Authority dated 08.05.2025 in C.P. (I.B) No.539/MB/2024 is set aside and the matter is remanded back to the Adjudicating Authority. The parties are free to move the Adjudicating Authority with their plea of settlement. No costs.”

4. The learned counsel for the applicant submits that paragraph 2 of the order does not disclose the settlement document dated 21.08.2025, though it is an admitted fact. This Tribunal has not applied its mind to the merits of the appeal nor has it taken upon itself the responsibility to work out the remedy for the respondent under Section 12A route, but has only required the appellant/Respondent in this application to move the Adjudicating Authority with a plea of settlement. However, in the concluding paragraph No. 7 it is stated that the appeal is allowed, which in the context, may not be correct.

5. Learned counsel for the respondent, however, submits that the appeal came to be allowed based on a statement made by the applicant herein.

6. We assessed the rival submissions. Once the CD has been admitted to CIRP, the rules regarding settlement and withdrawal of the CIRP are governed and guided by the principles laid down by the Hon'ble Supreme Court in **Glas Trust Company LLC Vs Byju Raveendran & Others**

[(2025)3 SCC 625].Therefore, even assuming that the applicant has made any concession before this Tribunal to allow the appeal, we may have to state with humility that we do not have the authority to do the same. The route to be adopted is the one prescribed under Section 12A of the IBC. In view of this, the phrase **‘the appeal is allowed’** in para 7 of the order does not fit either with the law on the subject or with the facts. This inadvertent error is corrected as below.

7. In conclusion, the Appeal is closed and the Order of the Adjudicating Authority dated 08.05.2025 in C.P. (I.B) No.539/MB/2024 is set aside and the matter is remanded back to the Adjudicating Authority. The parties are free to move the Adjudicating Authority with their plea of settlement. In the eventuality that the settlement process fails, the appellant is entitled to revive the appeal. No costs.

Justice N. Seshasayee
Member (Judicial)

Arun Baroka
Member (Technical)

rashmi/beena