NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.299/2026
(IA Nos.849 & 850/2026)

In the matter of:

Challakonda Shobha Raghuram
Director (Suspended Powers) of
Visakha Prime Properties Constructions Limited … Appellant
V
ASREC (India) Limited
Represented by Chief Manager & 2 Ors. … Respondents

Present :

For Appellant	: Mr. Y. Suryanarayana, Advocate For Mr. Bendi Raviteja, Advocate
For Respondents	: Mr. Srinivas Gowd, Advocate for R1 Mr. Ganesh Remani, RP/R2

O R D E R
(Hybrid Mode)

30.06.2026:

We proceed with a precautionary note, while passing this order, that this order will be deemed to be in the shape of an interlocutory arrangement in the instant company appeal, during its pendency.

2. The brief facts of the appeal are that, the Appellant herein, challenges the impugned order of 04.03.2026 that was passed in CP (IB)/30/7/AMR/2025, by virtue of which Ld. NCLT allowed the application filed by the Respondent No. 1 under Section 7 of the I & B Code, 2016 and directed admission of the Corporate

Debtor into CIRP.

3. At this stage, the Appellant, instead of addressing the company appeal on its own merit, has attempted to place certain additional facts on record, which have taken place post facto to the delivery of the impugned order of 04.03.2026 and based on the same, he prays that the CoC may be directed to take up the application under Section 12A of the I & B Code, 2016, for withdrawal of CIRP for consideration in light of the facts, which has been placed on record by the Appellant.

4. The brief facts are that, the process of CIRP was initiated by the Respondent No. 1 under Section 7 of the I & B Code, 2016, against the Corporate Debtor M/s. Visakha Prime Properties Constructions Limited, for default in the repayment of the debt dues amounting to Rs. 55,84,83,415.16 (Rupees Fifty Five Crores Eighty Four Lakhs Eighty Three Thousand Four Hundred Fifteen and Sixteen Paise only), which, has fallen due to be paid, as on 31.03.2025, under the terms of the contract along with contractual rate of interest of 18.87% per annum with effect from 01.04.2025 with a quarterly rest of compounding till its actual realization.

5. Both, Ld. Counsel for the Appellant as well as the Ld. Counsel for the Respondent, instead of addressing the company appeal on its own merits, have drawn the attention of this Appellate Tribunal to the communication that, was made by the Appellant vide email on 02.05.2026, to the Financial Creditor, i.e., the Respondent herein. In the said communications, the Appellant has stated that

she is the widow of late Mr. C. Raghuram Prasad, who was the actual recipient of the loan from Respondent No. 1 company, that there are certain amounts, due to be paid on account of the said loan based on which the proceedings under Section 7 of the I & B Code, 2016, has been initiated and that the outstanding amount has been arrived at based on the recovery certificate issued on 19.10.2024 by the DRT.

6. She has accepted her liability and has further stated in the aforesaid communication dated 02.05.2026, that owing to the financial crisis presently she is not in a position to settle the outstanding loan amount with interest, as ordered by Ld. DRT, but she is committed to settle the issue amicably, that she had initially proposed to offer a payment of Rs. 1 Crore as OTS on 25.02.2025 which was rejected by the Respondents, that subsequently on 02.05.2026 she had offered Rs. 1.60 Crores which was again rejected on 06.05.2026 with the comment that the offer can be considered if the offered amount is increased substantially and is submitted with a down payment of 15-20% of the offer amount, that the Appellant had once again extended the proposal for the OTS on 26.05.2026 for an amount of Rs. 2.00 Crore along with a down payment of Rs. 20 Lakhs submitted in form of a demand draft, and that the Respondent No. 1 has responded to the said communication observing thereof that the said offer has been placed before the competent authority of the Respondents for consideration, after which they will inform the Appellant on the statues of OTS proposal.

7. When the company appeal was being argued today, at an admission stage,

the Ld. Counsel for Respondent No. 1 submitted that the offer as extended by the Appellant on 26.05.2026, is acceptable by the Respondent and in continuation thereto, the matter is already pending consideration before the competent authority for taking a final call upon the offer of One Time Settlement.

8. While these arguments were being made, the Resolution Professional, Respondent No. 2 herein, has informed that the offer of OTS extended and its subsequent acceptance by Respondent No. 1, may not be in conformity with the provisions contained under Section 12A of the I & B Code, and filing the application for withdrawal of the Section 7 application may not be possible at the current stage of CIRP in the instant case owing to the amendments made to the provisions contained under Section 12A (2) of the I & B Code, 2016, by the Amending Act No. 6 of 2026.

9. He has submitted that after the admission of application under Section 7, 9 or 10 of the I & B Code, 2016, it can be withdrawn under Section 12A (2) of the Code, subject to certain conditions stipulated therein, that as per amended Section 12A (2)(b), the application under Section 7, 9 or 10 shall not be withdrawn after the first invitation for submission of Resolution Plan has been issued by the RP, that he has already issued invitation for Expression of Interest in Form G and therefore, the conditions as enshrined under Section 12A (2)(b) of the Code as amended, read with Regulation 30A of IBBI (IRP for CP) Regulations would create a bar in considering the application for the withdrawal of the Section 7

application which has been admitted.

10. In response thereto, Ld. Counsel for the Appellant has submitted that, while amended Section 12A (2)(b) bars entertainment of application for withdrawal of CIRP after invitation for submission of Resolution Plans while amended Regulations 30A (1) proviso (b) entertainment of such applications after invitation of EoI in Form G, that there is an apparent contradiction between the Principal Act and the Regulations as invitation for EoI and invitation for Resolution Plan are not the same and therefore the CoC and RP may be directed to consider the OTS proposal at this stage, as invitation for Resolution Plan is yet to be issued and as amended Regulation 30A will be ultra-vires, being in variance with the provisions of amended Section 12(2) of the Code.

11. This issue of whether amended Regulation 30A is rendered ultra vires is reserved to be considered at the stage when the Company Appeal is ventured into or if it is required to be ventured on its own merits, because the aspect of the conflicting implications of regulation to the principal provisions contained under Section 12A has to be considered on its own merits.

12. But since the Appellant and Respondents are actively involved in consideration of the OTS proposal as per the response submitted by Respondent No. 1 on 27.05.2026, we leave it open that the proposal of OTS, which is subject matter under consideration of Respondent No. 2 may be permitted to be carried further and submitted before CoC and the CoC will consider the same in

accordance with the provisions contained under Section 12A of the Code and would pass an appropriate resolution/decision on the same and intimate to this Appellate Tribunal about the decision taken on it.

13. We expect that the OTS proposal would be considered by the CoC in accordance under Section 12A (2) within a period of one month from today. Till then, the implications of the order dated 04.03.2026 would be kept in abeyance.

List this company appeal on **07.08.2026**.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

SN/MS/AK