

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

Company Appeal (AT) (Insolvency) No. 1415 of 2025

IN THE MATTER OF:

Beeram Singh

...Appellant

Versus

Pramod Kumar Sharma & Anr.

...Respondents

Present:

For Appellant: Mr. Ajit Kumar Sinha, Sr. Advocate with Mr. Subhay Chaudhary and Mr. Naveen, Advocates.

For Respondents: Mr. Arun Kathpalia, Sr. Advocate with Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Ms. Ridhima Mehrotra, Ms. Vanshika and Ms. Diksha, Advocates for RP.
Dr. Abhishek Manu Singhvi, Sr. Advocate with Mr. Abhijeet Sinha, Sr. Advocate, Mr. Nilotpal Shyam, Mr. Avishkar Singhvi, Ms. Shivali and Mr. Tejas Mishra, Advocates for SRA.
Mr. Sunil Fernandes, Sr. Advocate with Mr. Krishna Mohan Menon, Mr. Chetna Priyadarshi, Ms. Muskan Surana and Ms. Priya, Advocates.

Company Appeal (AT) (Insolvency) No.1471 of 2025

IN THE MATTER OF:

Appu Ghar Gurgaon Shop Buyers Association

...Appellant

Versus

International Recreation and Amusement Ltd. & Anr.

...Respondents

Present:

For Appellant: Mr. Sunil Fernandes, Sr. Advocate with Mr. Krishna Mohan Menon, Mr. Chetna Priyadarshi, Ms. Muskan Surana and Ms. Priya, Advocates.

For Respondents: Mr. Arun Kathpalia, Sr. Advocate with Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra,

Ms. Ridhima Mehrotra, Ms. Vanshika and Ms. Diksha, Advocates for R1.

Dr. Abhishek Manu Singhvi, Sr. Advocate with Mr. Abhijeet Sinha Sr. Advocate, Mr. Nilotpall Shyam, Mr. Avishkar Singhvi, Ms. Shivali and Mr. Tejas Mishra, Advocates for R2.

Mr. Krishnendu Datta, Sr. Advocate with Mr. Abhishek Kumar, Advocates for Intervener.

J U D G M E N T
(26th September, 2025)

Ashok Bhushan, J.

These two Appeals have been filed against the same judgment and order dated 20.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench, Court-II in various applications in Company Petition No. (IB)-297/(PB)/2018. By the impugned order, the Adjudicating Authority disposed of various applications remitting the Resolution Plan back to the Committee of Creditors (CoC) to take further/fresh steps in exercise of its commercial wisdom in accordance with law. IA No.2378 of 2025 and IA No.2768 of 2025 were allowed. Aggrieved by the aforesaid order, these two Appeals have been filed. Company Appeal (AT) (Insolvency) No.1415 of 2025 has been filed by one Beeram Singh claiming to be the Financial Creditor of the Corporate Debtor- M/s. International Recreation and Amusement Ltd. Company Appeal (AT) (Insolvency) No.1471 of 2025 has been filed by Appu Ghar Gurgaon Shop Buyers Association which claim to be association of Financial Creditors in class, allottees in Appu Ghar Project.

2. Brief facts of the case necessary to be noticed for deciding these Appeals are:-

2.1. The Corporate Debtor- M/s. International Recreation and Amusement Ltd., a Real Estate Company has undertaken the development of Appu Ghar Project at Sector 29, Gurugram on account of various default committed by the Corporate Debtor, Section 7 application was filed by Col. Sanjeev Dalal. The Adjudicating

Authority by order dated 03.08.2018 admitted Section 7 application and initiated Corporate Insolvency Resolution Process. Initially one Shri Arun Chadha was appointed as Interim Resolution Professional (IRP). Adjudicating Authority vide order dated 10.08.2018 replaced the IRP with Shri Pramod Kumar Sharma as IRP. The IRP made publication inviting claims from creditors. Adjudicating Authority appointed Authorised Representative for the Class of Creditors comprising of investors in Real Estate (Commercial). Form G was issued by the Resolution Professional in response to which 11 Applicants expressed interest to submit Resolution Plans. Resolution Professional issued RFRP and Information Memorandum to the Prospective Resolution Applicant. Five Resolution Plans were received which were placed before the CoC for consideration. One Resolution Applicant was found disqualified. A revised Resolution Plan was received from HGAS- Apex JV. Four Resolution Applicants were invited to make presentation of their respective plans to the CoC members. Revised Resolution Plan from HGAS- Apex JV as well as Unity Buildwell Ltd. was received which was circulated. Both the Resolution Applicants submitted their final Resolution Plans. Plans were put to vote on 09.05.2019. Resolution Plan of HGAS- Apex JV received 58.19% vote, plan of Unity Buildwell was not approved with 95.77% vote. Resolution Professional submitted a Report that the plan of HGAS- Apex JV has been approved relying on judgment of NCLT in **“Nikhil Mehta & Ors. Vs. M/s. AMR Infrastructure Ltd.”**. The Resolution Professional filed a CA No.1225 of 2019 before the Adjudicating Authority seeking approval of the plan of HGAS- Apex JV on 05.07.2019. IA No.4464 of 2020 and IA No.4563 of 2020 were filed before the Adjudicating Authority by homebuyers raising various objections including the objections against the foreign partner who was part of the Successful Resolution Applicant. Adjudicating Authority rejected the applications. Challenging the order of the Adjudicating Authority rejecting the application, homebuyers namely- Gurupreet Singh Chadha & Ors. filed Company Appeal (AT) (Insolvency) No.480 of 2021-

“Gurupreet Singh Chadha & Ors. Vs. International Recreation and Amusement Ltd. Through Resolution Professional & Ors.”. On 23.10.2021, an e-mail was sent on behalf of Hari Global Advisory Services (SRA) to the Resolution Professional informing that the SRA is proposing to delete Parklane Investment and Securities Pvt. Ltd. (foreign partner) from JV. E-mail further stated that the SRA proposes to execute the project in association with Paras Buildtech. This Tribunal in Company Appeal (AT) (Insolvency) No.480 of 2021 directed the Adjudicating Authority not to take any decision on application for approval of the Resolution Plan. Company Appeal (AT) (Insolvency) No.480 of 2021 ultimately came to be dismissed on 04.10.2023. IA No.5041 of 2024 was filed by Beeram Singh, Appellant before the Adjudicating Authority praying for various reliefs including dismissal of IA No.1225 of 2019 filed by the Resolution Professional for approval of the Resolution Plan. Adjudicating Authority vide order dated 19.02.2024 confirmed the appointment of Mr. Keshri Kumar, Insolvency Professional as Authorised Representative of Financial Creditors in class. IBBI issued show-cause notice against Mr. Pramod Kumar Sharma and by order dated 20.09.2024 with regard to various actions/misconduct committed in CIRP of the Corporate Debtor in question has suspended the registration of Mr. Pramod Kumar Sharma for a period of three years. On a writ petition filed by Pramod Kumar Sharma, Allahabad High Court passed an order dated 06.10.2024 staying the order dated 20.09.2024.

2.2. An Affidavit was also filed by the SRA before the Adjudicating Authority giving details of change in the constitution of the SRA. Before the Adjudicating Authority, certain other applications were filed by various homebuyers Financial Creditors in class. An IA No.2378 of 2025 was also filed by Beeram Singh, Appellant in Company Appeal (AT) (Insolvency) No.1415 of 2025 seeking direction to Respondent to file a detailed Affidavit clarifying the current status and constitution of the Resolution Applicant, including disclosures regarding any changes in co-Resolution Applicants,

and to place on record all relevant facts. The Adjudicating Authority heard the different IAs including the plan approval application. The Adjudicating Authority disposed of all the applications. IA No.2378 of 2025 and IA No.2763 of 2025 had been allowed. With regard to replacement of the Resolution Professional which was prayed in IA No.5041 of 2024, the Adjudicating Authority observed that the CoC may consider replacement of the Resolution Professional. Adjudicating Authority noticed the submissions of the SRA that in change circumstances, Resolution Plan cannot be approved. The Adjudicating Authority has referred to the plan approval application as CA No.897 of 2019 which was referred by the Resolution Professional as IA No.1225 of 2019. Aggrieved by the order dated 20.08.2025, Company Appeal (AT) (Insolvency) No.1415 of 2025 has been filed by Beeram Singh praying for following reliefs:-

- “(I) That the impugned order dated 20.08.2025 passed by Ld. Adjudicating Authority in I.A No. 5041 of 2024 "Beeram Singh Vs. Pramod Kumar Sharma" in the matter of "Col. Sanjeev Dalal Vs. International Recreation and Amusement Limited (C.P No. (IB) - 297(PB) / 2018) may kindly be set aside to the extent of remitting the Resolution Plan back to the COC and/or*
- (II) Declare the resolution plan submitted by HGAS Global- Apex JV as null and void as no Successful Resolution Applicant exists as on date to implement the Plan and/or*
- (III) Direct the resolution professional to issue fresh Form-G and conduct the whole process efficiently and speedier manner and/or*
- (IV) Pass any further order/ direction that this Hon'ble Appellate Tribunal may deem fit in the interest of justice and equity.”*

2.3. Company Appeal (AT) (Insolvency) No.1471 of 2025 has been filed by Appu Ghar Gurgaon Shop Buyers Association challenging the impugned order where following reliefs have been sought:-

- “i. Allow the present appeal; and/or*
- ii. Set aside the impugned order dated 20.08.2025 passed by the Hon’ble NCLT, Bench-II, New Delhi, in CP No. IB 297(PB)/2018; and/or*
- iii. Reject the purported Resolution Plan submitted by M/s Hari Global Advisory Services, Park Lane JV, together with any substituted or reconstituted entities including but not limited to Rapid Buildtech Pvt. Ltd., as being ex facie illegal, non-compliant and vitiated by fraud; and direct the Committee of Creditors to initiate procedures for inviting fresh resolution proposals vide Form G and proceed in accordance with law; and/or*
- iv. Pass any such order(s) or further order(s) as this Hon’ble Tribunal may deem appropriate in the facts and circumstances of the instant case and in the interest of justice.”*

3. We have heard Shri Sunil Fernandes, Learned Senior Counsel for the Appellant in Company Appeal (AT) (Insolvency) No.1471 of 2025 and Shri Ajit Kumar Sinha, Learned Senior Counsel for the Appellant in Company Appeal (AT) (Insolvency) No.1415 of 2025. We have heard Dr. Abhishek Manu Singhvi and Shri Abhijeet Sinha, Learned Senior Counsel for the Successful Resolution Applicant (SRA), Shri Arun Kathpalia, Learned Senior Counsel with Shri Abhishek Anand, Learned Counsel for the Resolution Professional.

4. Shri Sunil Fernandes, Learned Senior Counsel for the Appellant submits that after approval of the plan on 09.05.2019 by the CoC composition of the SRA has been

changed. SRA who had submitted the Resolution Plan which was approved by the CoC is no more in existence. SRA itself has communicated that the foreign partner i.e. M/s. Parklane Investment and Securities Private Limited of the SRA be deleted. The CoC has approved the plan considering the Resolution Plan submitted by JV Partners of which Parklane Investment and Securities Pvt. Ltd. was providing necessary finances. It is submitted that M/s. Hari Global Advisory Services itself has undergone a change which has converted itself into M/s. Hari Global Recreation and Amusement LLP. Identity of the SRA has come to an end which ground was sufficient to reject the Resolution Plan approved on 09.05.2019. Appellant- Beeram Singh filed an IA No.5041 of 2024 praying for rejection of the Application for approval of the plan. It is submitted that the registration of the Resolution Professional has been suspended for three years by the IBBI on misconduct committed by the Resolution Professional in the CIRP of the Corporate Debtor which are finding recorded by the IBBI removing the IRP. Such Resolution Professional is not entitled to continue in the CIRP. It is further submitted that the Resolution Professional has entered into certain revenue sharing agreements with the SRA by which possession of the Corporate Debtor has been handed over to the SRA without plan having been approved. Appellant- Bheeram Singh has also filed an application seeking a direction to the SRA to provide all necessary details regarding the composition of the SRA. Resolution Professional after having received e-mail from SRA that M/s. Parklane Investment and Securities Pvt. Ltd. is no longer part of the SRA ought to have brought to the notice of the Adjudicating Authority about the ineligibility of the Resolution Applicant to prosecute the Resolution Plan. Appellant has prayed for removal of the Resolution Professional against whom misconduct has been proved. The mere fact that he has obtained an interim order from Allahabad High Court cannot be ground to permit the Resolution Professional to continue in the CIRP of the present Corporate Debtor. The present was a case where plan approval application required outright

rejection and there was no occasion to remit the plan to the CoC for fresh consideration. It is submitted that the present is a case where Adjudicating Authority ought to have directed after rejecting the Resolution Plan to issue fresh Form G. Lastly, it is submitted that even if the CoC is permitted to consider the plan, the ineligibility of Resolution Applicant has to be first looked into and further an observer be appointed by this Court to oversee the entire process. It is submitted that Appellant never consented that Plan be remitted to CoC for fresh consideration. Resolution Applicant has no financial capacity to implement the plan, its total profit earned in F.Y. 2021-22 are Rs.1273328, whereas plan value is Rs.700 Cr.

5. Shri Ajit Kumar Sinha, Learned Senior Counsel appearing for the Appellant in Company Appeal (AT) (Insolvency) No.1415 of 2025 submits that Appellant which is association representing allottees of Appu Ghar Project developed by the Corporate Debtor, members of the association are Financial Creditors in class and formed part of the CoC. It is submitted that the Appellant is aggrieved by the impugned order passed by the Adjudicating Authority remitting the Resolution Plan back to the CoC for fresh consideration. It is submitted that the Resolution Plan submitted by Joint Venture was not even approved by the requisite majority of 66% and the Resolution Plan of the SRA would aggregate only 58.19% vote share. It is submitted that the Resolution Applicants who submitted Resolution Plan being no more in existence, the application for approval of the Resolution Plan was liable to be rejected. Resolution Applicants being no more eligible in the process. It is submitted that the Resolution Plan in the CIRP is approved on the credentials of the Resolution Applicant and when the Resolution Applicant has itself gone sea change, the Adjudicating Authority erred in remitting to the CoC for the consideration of the same plan. It is submitted that the JV partner M/s. Parklane has been ousted by the SRA another JV partner M/s. Hari Global Advisory Services. It is submitted that M/s.

Hari Global Advisory Services initially introduced one M/s. Rapid Buildtech Pvt. Ltd. who is now sought to be replaced by another entity. It is submitted that M/s. Hari Global Advisory Services has lost its identity by converting into Hari Global Recreation and Amusement LLP. Resolution Applicant who submitted the plan not continuing as on date, no direction could have been issued for considering the plan submitted by Resolution Applicant, initially which consisted JV. It is submitted that the present is a clear case of sale of Resolution Plan by one JV Partner after approval of the Resolution Plan which is impermissible. There have been various procedural breaches committed by the Resolution Professional who has been now suspended by the IBBI. The interim order which was obtained by the Resolution Professional from the Allahabad High Court is not on the merit of the allegation but on the ground that delay was not condoned in filing the complaint. It is submitted that several e-mails have been sent to the Resolution Professional to convene a meeting for replacement but no meeting of the CoC has been convened so far with the agenda of replacement of the Resolution Professional.

6. Dr. Abhishek Manu Singhvi, Learned Senior Counsel for the SRA refuting the submissions of the Counsel for the Appellants submits that Appeals filed by Appellants claiming to the Financial Creditors in Class is not maintainable. The Financial Creditors in a class has to go by majority decision of the Financial Creditors. In the present case, homebuyers who have voted with the majority approving the plan cannot challenge the approval of the Resolution Plan individually. Counsel for the SRA relied on the judgment of the Hon'ble Supreme Court in ***"Jaypee Kensington Boulevard Apartments***

Welfare Association And Others vs. NBCC (India) Limited and Ors.- (2022) 1 SCC 401” and submits that Appeals are liable to be dismissed on the ground of locus. It is submitted that some of the members of the Appellant in Company Appeal (AT) (Insolvency) No.1471 of 2025 were also part of the earlier Appeal being Company Appeal (AT) (Insolvency) No.480 of 2021. Appeal filed by some of the homebuyers being Company Appeal (AT) (Insolvency) No.480 of 2021 having been dismissed on 04.10.2023. It is not open for the Financial Creditors in Class to again agitate the same issue. It is submitted that the Adjudicating Authority has rightly remitted the plan for fresh consideration. It is submitted that all changes in the constitution of the SRA were brought into the notice of the Resolution Professional and an Affidavit was also filed by the SRA before the Adjudicating Authority. It is submitted that the objection was raised with regard to JV Partner M/s. Parklane Investment and Securities Pvt. Ltd. by some of the homebuyers, hence, Hari Global Advisory Services proposes to delete Parklane Investment and Securities Pvt. Ltd. An MoU was entered on 24.09.2021 between M/s. Hari Global Advisory Services with Rapid Buildtech Pvt. Ltd., an associate concern of Paras Buildtech India Pvt. Ltd. who is ready to execute the plan. It is submitted that it will be open for the members of the CoC to take a decision in pursuance of the impugned order of the Adjudicating Authority in their commercial wisdom. Appellant who also claimed to be Financial Creditors in Class and who are part of the CoC can exercise their right to vote when CoC considers the same. It is submitted that the Resolution Professional although was suspended by the IBBI but in view of the interim order passed by the Allahabad High Court that suspension is not operative.

7. Shri Abhijeet Sinha, Learned Senior Counsel for the SRA also submitted that in fact, the impugned order is a consent order where Appellant- Beeram Singh of Company Appeal (AT) (Insolvency) No.1415 of 2025 has also consented for

remitting the plan to the CoC for fresh consideration. It is submitted that the Adjudicating Authority has noticed that both the Applicants and SRA are *ad-idem* that in the change circumstances, Resolution Plan cannot be approved. It is submitted that Company Appeal (AT) (Insolvency) No.1415 of 2025 cannot be maintained when the order was passed by consent. It is submitted that the Financial Creditors in Class made earlier attempts also to challenge the Resolution Plan in which they failed. CIRP is continuing for the last six years and the present Appeals are another attempt to derail the CIRP process.

8. Shri Arun Kathpalia, Learned Senior Counsel for the Resolution Professional submits that the CoC had never taken any decision to replace the Resolution Professional. The Resolution Professional never received any requisition by requisite numbers of homebuyers for convening any meeting of the CoC for replacement of the Resolution Professional. The Resolution Professional is duty bound to perform his duties. Resolution Professional has brought into notice the e-mail received by the SRA informing change in the constitution of the JV.

9. We have considered the submissions of the Counsel for the parties and perused the record.

10. Appellant in Company Appeal (AT) (Insolvency) No.1415 of 2025 had filed two applications before the Adjudicating Authority in IA No.5041 of 2024 where Applicant has prayed for following reliefs:-

“I. Appoint an independent and suitably qualified Insolvency Professional to oversee and facilitate the successful resolution of the Corporate Debtor, in accordance with the provisions of the Insolvency and Bankruptcy Code.

II. Dismiss the I.A Bearing no. 1225/2019 filed by the respondent herein for approval of the resolution plan and/or

III. Direct for the issuance of the Fresh Form G with the directions to conduct the whole process efficiently and speedier manner and/or

IV. Pass any further order in favour of the Applicant that this Hon'ble Adjudicating Authority deems fit under the facts and circumstances of the present case.”

11. Another application which has been filed by the Appellant- Beeram Singh is IA No.2378 of 2025. Prayer in the said application are as follows:-

“a) Direct the Respondents to file a detailed affidavit clarifying the current status and constitution of the Resolution Applicant, including disclosures regarding any changes in co-resolution applicants, and to place on record all relevant documents, approvals, correspondences, and financial records substantiating the Resolution Applicant's capability and preparedness to implement the approved resolution plan and/or;

b) Direct the Respondents to disclose the financial viability, funding sources, and implementation roadmap of the resolution plan, including projected timelines, resource mobilization, and status of existing or ongoing projects and/or;

c) Direct the Respondents to produce the current audited financial statements, operational status, and legal standing of all entities involved in the resolution plan, including information regarding any pending investigations, litigations, or regulatory actions and/or;

d) Pass such further orders or directions as this Hon'ble Adjudicating Authority may deem just, fit, and proper in the interest of justice and to safeguard the rights and interests of the applicant and similarly placed homebuyers and financial creditors."

12. It is to be noted that Application IA No.2378 of 2025 filed by Beeram Singh has been allowed. The consequence of the order allowing the application is that the SRA is obliged to give all details pertaining to composition of the SRA changes, relevant correspondences and materials. It is useful to notice paragraphs 23 and 24 of the impugned order which is as follows:-

"23. As far as IA-2378/2025 and 2763/2025 are concerned, the prayer made therein are innocuous and in consonance of regulation 38 and 39 of IBBI (CIRP) Regulations, 2016. While taking further steps in exercise of its commercial wisdom the CoC should call for the information/record/material referred to in IA-2378/2025 and 2763/2025 from the SRA.

24. In the wake of the aforementioned, taking a holistic view, we dispose of IA-897/2019, 3416/2024, 5014/2024, 05/2025 and 728/2025 remitting the resolution plan back to CoC to take further/fresh steps in exercise of its commercial wisdom in accordance with law. The CoC may also consider replacement of RP in accordance with Section 27 of IBC, 2016. The IA-2378/2025 and 2768/2025 stands allowed."

13. The submission which has been pressed by the Counsel for the Appellant is that the Adjudicating Authority ought to have rejected the application filed by the Resolution Professional for approval of the Resolution Plan and there was no occasion to remit the Resolution Plan for fresh consideration specially when the composition of the SRA has been changed and the SRA who had submitted the Resolution Plan

whose name was included in the list of eligible Resolution Applicant is no more in existence. It is submitted that the JV Partner which had submitted the Resolution Plan is no more in existence since Parklane Investment and Securities Pvt. Ltd. has been removed by another JV Partner Hari Global Advisory Services itself.

14. Learned Counsel for the SRA in his submission at very outset has raised objection to locus of the Appellant to file this Appeal. Reliance has been placed on judgment of the Hon'ble Supreme Court in **"Jaypee Kensington Boulevard Apartments Welfare Association"** (supra). He submits that the minority of homebuyers has to go along with the decision of the homebuyers and when the plan is approved by the homebuyers, no individual homebuyer has right to challenge the approval of the Resolution Plan. He further contended that earlier Appeal being Company Appeal (AT) (Insolvency) No.480 of 2021 filed by Gurupreet Singh Chadha & Ors. who were also some of the homebuyers had already been dismissed, hence, the present Appeal which has been filed by the Financial Creditors in Class deserves to be rejected by virtue of judgment of the Hon'ble Supreme Court in **"Jaypee Kensington Boulevard Apartments Welfare Association"** (supra). In this context, we may refer paragraphs 210.5 and 273.9 of the judgment where Hon'ble Supreme Court held that when Resolution Plan is approved by a vote of more than 50% of the voting share of the financial creditors within a class, the minority of those who vote, as also all others within that class, are bound by that decision. There is no scope for any particular person standing within that class to suggest any dissention as regards the vote over the resolution plan. Paragraphs 210.5 and 273.9 of the judgment are as follows:-

“210.5. *Having regard to the scheme of IBC and the law declared by this Court, it is more than clear that once a decision is taken, either to reject or to approve a particular plan, by a vote of more than 50% of the voting share of the financial creditors within a class, the minority of those who vote, as also all others within that class, are bound by that decision. There is absolutely no scope for any particular person standing within that class to suggest any dissention as regards the vote over the resolution plan. It is obvious that if this finality and binding force is not provided to the vote cast by the authorised representative over the resolution plan in accordance with the majority decision of the class he is authorised to represent, a plan of resolution involving large number of parties (like an excessively large number of homebuyers herein) may never fructify and the only result would be liquidation, which is not the prime target of the Code. In the larger benefit and for common good, the democratic principles of the determinative role of the opinion of majority have been duly incorporated in the scheme of the Code, particularly in the provisions relating to voting on the resolution plan and binding nature of the vote of authorised representative on the entire class of the financial creditor(s) he represents.*

273.9. *The homebuyers as a class having assented to the resolution plan of NBCC, any individual homebuyer or any association of homebuyers cannot maintain a challenge to the resolution plan and cannot be treated as a dissenting financial creditor or an aggrieved person; the question of violation of the*

provisions of the RERA does not arise; the resolution plan in question is not violative of the mandatory requirements of the CIRP Regulations; and when the resolution plan comprehensively deals with all the assets and liabilities of the corporate debtor, no housing project of the corporate debtor could be segregated merely for the reason that same has been completed or is nearing completion.”

15. The Appeals have been filed by the Appellants challenging the order of the Adjudicating Authority dated 20.08.2025 by which Adjudicating Authority has remitted the Resolution Plan for fresh consideration by the CoC. In the present Appeals, Appellants are not challenging the approval of the plan by the CoC which took place on 09.05.2019. There can be no dispute to the proposition of the law laid down by the Hon’ble Supreme Court in the above case. The present is not a case where Appellants are challenging approval of the Resolution Plan by the CoC dated 09.05.2019. Adjudicating Authority in the impugned order has already noticed the submissions of the Applicant as well as SRA that the Resolution Plan cannot be approved. Thus, approval of the Resolution Plan is not a question which has been considered nor the decision of the CoC approving the Resolution Plan on 09.05.2019 has been affirmed by the impugned order. The effect and consequence of the order impugned is that approval of the CoC of the plan on 09.05.2019 is no more in existence. When Adjudicating Authority itself has remitted the Resolution Plan and directed the CoC to consider afresh, the issue pertaining to approval of the Resolution Plan by homebuyers is no more in issue. The principle which has been laid down by the Hon’ble Supreme Court in **“Jaypee Kensington**

Boulevard Apartments Welfare Association” (supra) are not applicable in the facts of the present case. Since present is not a case where minority homebuyers are challenging approval of the plan by the CoC rather they are aggrieved against the direction of the Adjudicating Authority remitting the Resolution Plan to the CoC. In the Appeal, one of the grounds which has been canvassed by the Appellants is that after approval of the plan due to subsequent events SRA is no more in existence who have submitted the plan which according to the Appellant is a ground which was sufficient for not issuing any direction for reconsideration of the plan by the CoC. We, thus, are of the view that on the issue which has been raised in the Appeal, Appeal cannot be held to be non-maintainable. We, thus, overrule the preliminary objections raised by the Respondents regarding locus of the Appeal.

16. Counsel appearing for the Respondents have also raised objection on the maintainability of the Appeal on the ground that the impugned order dated 20.08.2025 was a consent order and the order being a consent order, no Appeal is maintainable. Counsel for the Appellants, however, refuted the submission and submitted that there was no consent for passing the impugned order. Appellant- Beeram Singh who has filed IA No.5041 of 2024 has prayed that the application for approval of the Resolution Plan be rejected and never has consented for remitting the plan back for reconsideration. The order impugned in paragraph 21 has noticed the submissions of the parties to the following effect:-

“In a way, both the applicants and SRA are ad idem that in the changed circumstances, the resolution plan cannot be approved.”

17. It is, thus, clear that although SRA and Applicants submitted that the Resolution Plan cannot be approved when the order does not indicate that there was any consent recorded on behalf of the Applicants that they are agreeable for passing an order for reconsideration of the Resolution Plan by the CoC. Moreso, Applicants have raised various objections to the plan approved by the CoC which has been noted by the Adjudicating Authority. The order does not indicate that all objections raised by the Applicants were given up. We, thus, do not find any substance in the submission of the Learned Counsel for the SRA that the order impugned is a consent order.

18. It is to be noted that although one of the submissions raised by the Applicant in IA No.5041 of 2024 was that Resolution Plan was not approved by requisite majority but the Adjudicating Authority in the impugned order has not examined the said issue and observed that since Counsel for the SRA himself has taken the stand that Resolution Plan need to be remitted back, the plea regarding vote share has become otiose and need not be examined.

It is useful to notice following observation in paragraph 21:-

“.....In addition to the prayer for rejection of the application filed for approval of the resolution plan, the IA-5041/2024 also contain the plea for replacement of the RP. When, it could be pleaded by the Applicant in aforementioned IAs quite extensively that the renouncement of the consortium (SRA) by one of its members and the

conversion of other member of the consortium (SRA) from partnership firm to LLP is sufficient ground to reject the application for approval of resolution plan, Mr. Abhishek Manu Singhvi, Ld. Senior Counsel for the SRA also contended that in view of such development, it would be ideal to remit the plan back to CoC for its fresh consideration of the plan, with added member of consortium. In a way, both the applicants and SRA are ad idem that in the changed circumstances, the resolution plan cannot be approved. The applicants in the IAs (supra) could also express concern that the resolution plan which could fetch only 58.19% vote share could not have been treated as approved. Nevertheless, in view of the stand taken by Mr. Abhishek Manu Singhvi, the Ld. Sr. Counsel, that the resolution plan needed to be remitted back to the CoC for its fresh consideration, the plea regarding vote share has become otiose and need not be examined.”

19. It is useful to notice one of the observations in above paragraph is “*in a way, both the applicants and SRA are ad idem that in the changed circumstances, the resolution plan cannot be approved*”. It is further relevant to notice that the Adjudicating Authority has noticed the submission of the Appellant regarding change in the constitution of the SRA subsequent to the approval of the plan. It is useful to notice following observations in paragraph 22:

“Nevertheless, the reconstitution of SRA after approval of the resolution plan is not permissible. Any change or requirement of change in resolution

plan as also reconstitution of SRA need to be examined by CoC and it is for CoC to take a view regarding reconsideration/ approval of resolution plan with alteration/change therein.”

20. Although submission has been advanced by both the parties regarding non-permissibility/ permissibility of the change in the constitution of the SRA but the Adjudicating Authority having not considered the said issue, we are of the view that the issue need not be considered in these Appeals. The Adjudicating Authority has clearly held in paragraph 22, as noted above, that any change or requirement of change in resolution plan as also reconstitution of SRA need to be examined by CoC.

21. Counsel for the Appellant in Company Appeal (AT) (Insolvency) No.1471 of 2025 has also placed reliance on the judgment of this Tribunal in **“Jubilee Metal Pvt. Ltd. Vs. Mr. Surendra Raj Garg, Resolution Professional of Metenere Ltd. & Anr.- Company Appeal (AT) (Insolvency) No.1550 of 2023”** decided on 22.12.2023. It is submitted that in the above case also, Resolution Applicant who had transferred of his 100% shareholding after approval of the Resolution Plan was not approved and this Tribunal found the case of sale of Resolution Plan after approval by the CoC to third party. Counsel for the Appellant has relied on paragraph 29 of the judgment, which is as follows:-

“29. Present is a case where in essence we may say it is a case of sale of Resolution Plan approved by the CoC to third party. CoC approves the Resolution Plan looking to the credentials of the Resolution Applicant and its credibility and finances. When very basis of

Resolution Applicant is knocked out and it changes its constitution substantially the CoC cannot be faulted in view of breach of the conditions by the Resolution Applicant, application for approval of the Resolution Plan be withdrawn. We, thus, conclude that the Resolution Applicant has violated the addendum of the Resolution Plan as well as undertaking as given in the LoI and the Adjudicating Authority has rightly returned the finding as noted above.”

22. Counsel for the Respondents refuting the above submissions submits that in the above case of “*Jubilee Metal Pvt. Ltd.*” (supra), SRA has transferred his 100% shareholding which was prohibited under the RFRP, hence, it was held that it was not permissible. Counsel for the Respondents submits that in the present case, the changes which have been made in the composition of SRA subsequent to approval of Resolution Plan does not violate the provisions of RFRP. We have already noticed that the Adjudicating Authority has observed that any change or requirement of change in Resolution Plan as also reconstitution of the SRA need to be examined by the CoC. The question of eligibility of SRA to continue in the CIRP process on account of change in the constitution of the SRA which is an admitted fact goes to very root of the matter. We are of the view that the said issue need to be considered by the CoC before proceeding further.

23. In the facts of the present case, we are of the view that the question of eligibility of the Resolution Applicant in change form as per the SRA himself goes to very root of the eligibility of the Resolution Applicant to continue in the CIRP process. Whether the Resolution Applicant after such changes as

has been noticed is still eligible to claim as a Resolution Applicant so as to consider its plan is in question which need to be first considered by the CoC before any consideration or voting on the Resolution Plan.

24. Another issue which need to be noticed is regarding replacement of the Resolution Professional. As noted above, Resolution Professional has been suspended by IBBI vide order dated 20.09.2024 for three years on the ground of misconduct and illegality committed by the Resolution Professional in the present CIRP itself. Prayer was made before the Adjudicating Authority for replacement of the Resolution Professional on which Adjudicating Authority in paragraph 22 has made following observations: -

“As far as the plea regarding replacement of resolution plan raised in IA-5041/2024 is concerned, we agree with the plea raised by the RP that it is for CoC to take a decision regarding replacement of Resolution Professional subject to written consent from the proposed resolution professional with 66% voting share. The single applicant in IA has no locus to seek the replacement of resolution professional. Nevertheless, in the backdrop of the position espoused by the applicant in the IA-5041/2024, the CoC may consider passing resolution for replacement of RP. For the time being, we refrain from exercising our discretion to order replacement of RP, but if RP is not replaced by CoC, then we will like to take an independent view in the backdrop of the position canvassed in IA-5041/2024”.

25. Counsel for the Resolution Professional submitted that at no point of time any requisition by the requisite number of members of homebuyers has been submitted to place agenda for replacement which submission has been refuted by Counsel for the Appellant appearing in Company Appeal (AT) (Insolvency) No.1471 of 2025. It is submitted by Counsel for the Appellant that after the order of the IBBI dated 20.09.2024, several e-mails were sent to the Authorised Representative for replacement of Resolution Professional. It is useful to notice one of the e-mail dated 28.08.2025 filed at Page 428, which is as follows:-

*“To : Authorised Representative Mr Kesri (For CA Class
in the matter of IRAL)*

CC: Resolution Professional Mr Pramod Sharma

Date - 28th Aug 2025

Dear Sir,

I am the a creditor in class in the matter of Corporate Insolvency Resolution Process of International Recreation and Amusement Ltd hereby express a request to call a meeting of class of creditors on 07 Sep2025 or earlier to discuss following agenda and resolutions to be approved in the proposed meeting and placed in the meeting of the Committee of Creditors of the Corporate Debtor to be convened by the Resolution Professional of the Corporate Debtor in accordance with on Regulation 18(2) of the CIRP Regulations which mandated that “a resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of

the committee representing at least thirty three per cent of the voting rights”.::

1) The Authorized Representative shall issue a requisition to the Resolution Professional of the Corporate Debtor to convene a meeting of the Committee of Creditors (“COC”) of the Corporate Debtor immediate basis to discuss the agenda no. (2) and resolutions thereof.

2) To replace the Resolution Professional of the Corporate Debtor under Section 27 of the Insolvency and Bankruptcy Code, 2016 (“Code”) with another Insolvency Professional, registered with the Insolvency and Bankruptcy Board of India (“IBBI”/ “Board”).

I am very much concerned about the right of myself and other homebuyers/allottees under the projects of the Corporate Debtor, and you are hereby requested to convene an urgent meeting of class of creditors and place the above (1) to (2) agenda/resolutions for approval by the Class of Creditors to enable you (Authorized Representative of Class of Creditors) to requisition a notice to the Resolution Professional of the Corporate Debtor to call an urgent meeting of COC members to discuss and decide above agenda/resolutions (2) in accordance with the provisions of the Code and Regulations made thereunder. It is further clarified that the Results of voting on the above agenda/resolutions in the meeting of the Class of Creditors shall be considered as voting instructions by the Financial Creditors in class in terms of Section 25A of the Code, and the Authorised Representative of our class of creditors (you) shall cast a vote in the COC meeting accordingly.

It is requested that Voting be held by the authorised Agency by direct communication to the Financial Creditors, without intervention of AR/RP. Kindly refer In the matter of I.A. No. 897 of 2019 - wherein several allegations were made on the conduct of the voting by the RP. In view of the said application, the Hon'ble NCLT while disposing of the said application vide Order dated 21.04.2023 directed that if any voting is to happen, it shall be through the authorized agency like CDSL or NSDL. It further went to direct that RP will refrain from keeping the user ID & Password and the E-voting agency will distribute the user ID & Password to the individual allottees directly.

Thanks and Best Regards,

Name: Mr.Ram Kishan Saini

Claim No: IRALCA386”

26. The Appellant in Company Appeal (AT) (Insolvency) No.1471 of 2025 has brought on record several e-mails from pages 428 to pages 670 where request has been made for convening meeting for considering the agenda for replacement of the Resolution Professional. It is for the Authorised Representative to submit letter for requisition to the Resolution Professional on the strength of requisite numbers of homebuyers to ask for convening a meeting for consideration of replacement of the Resolution Professional. We are of the view that the Authorised Representative may examine as to whether requisite numbers of homebuyers have requested for convening a meeting and on being satisfied, he may send communication to the Resolution Professional as well as to the Financial Creditors regarding convening a meeting with

agenda of replacement of Resolution Professional. In event, the request is made by requisite number for convening a meeting, Resolution Professional is obliged to convene a meeting for putting agenda for replacement. We notice that the Adjudicating Authority in paragraph 23 of the impugned order has said that CoC may consider passing resolution for replacement of Resolution Professional. We, thus, are of the view that before consideration of the Resolution Plan as remitted by the Adjudicating Authority, if meeting of CoC is convened with an agenda for replacement of Resolution Professional on requisition from requisite number of allottees, CoC may consider the replacement. In the above context, Counsel for the Respondent relied on judgment of this Tribunal in Company Appeal (AT) (Insolvency) No.810 of 2023- ***“Vivek Raheja vs. Pramod Kumar Sharma, Resolution Professional”*** where Appeal which was filed by Authorised Representative of the Financial Creditors in Class was disposed of noticing the submission of the Appellant that he shall make appropriate request to the Resolution Professional with requisite majority. It is submitted that the said order was passed on 12.07.2023 arising out of the present CIRP of the Corporate Debtor where Appeal was filed rejecting such request. There is no dispute that the meeting of the CoC can be convened on requisition received from 33% of allottees and it is for the Authorised Representative of the homebuyers to ascertain as to whether 33% of the allottees are requesting for convening a meeting for replacement and Authorised Representative being satisfied with requisite majority of 33% of allottees are seeking replacement may ask the Resolution Professional to convene a meeting.

27. In view of the foregoing discussions and our conclusions, we are of the view that both the Appeals need to be disposed of in following manner:-

- (I) The order impugned dated 20.08.2025 is upheld subject to following directions:-
 - (i) Authorised Representative of the Financial Creditors in a Class after ascertaining as to whether 33% of allottees have requested for convening a meeting of CoC for considering the replacement of the Resolution Professional, he may request the Resolution Professional to convene a meeting for replacement, on such requisition made, the Resolution Professional is obliged to convene the meeting of CoC for consideration of his replacement.
 - (ii) CoC in meeting so convened for considering the agenda of replacement of Resolution Professional may take a decision in accordance with Section 27 of the IBC.
 - (iii) As per the impugned order, the SRA shall submit all relevant information, record, materials with respect to change of composition of the SRA to Authorised Representative of CoC and the Resolution Professional.
 - (iv) The CoC may first consider as to whether the Resolution Applicant in view of the change in composition of the Resolution Applicant from time to time is eligible to continue as Resolution Applicant.

- (v) CoC, thus, may first take a decision regarding the eligibility of SRA and any further steps with respect to Resolution Plan submitted by SRA can be taken only after taking a decision that SRA continues to be eligible so as to consider the Resolution Plan.
- (vi) Further steps shall be taken as per the decision of the CoC in accordance with law.

Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

New Delhi
Anjali