NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.379/2025
(IA Nos.1120/2025 & 1121/2025)

In the matter of:

Boorugu Infra Projects Private Limited
In Consortium with Vishwanath Projects Limited
Postal Address including PIN Code:
House No 8-2-293/81A/1355B,
Road No. 45, Jubilee Hills,
Hyderabad- 500033, Telangana **… Appellant No. 1**

Boorugu Infra Projects Private Limited
Postal Address including PIN Code:
Having its registered office at
House No 8-2-293/81A/1355B
Road No. 45, Jubilee Hills,
Hyderabad- 500033, Telangana **… Appellant No. 2**

V

Mr. Birendra Kumar Agarwal
Resolution Professional of
M/s. Manjeera Retail Holding Pvt. Ltd.
Postal Address including PIN Code:
711, Manjeera Trinity Corporate
JNTU- Hitech City Road,
Kukatpally Housing Board Colony
Hyderabad- 500072, Telangana **… Respondent No. 1**

Committee of Creditors of
Manjeera Retail Holdings Pvt. Ltd.
Rep. by its Lead Member **… Respondent No. 2**

Lulu International Shopping Malls Private Limited
Postal Address including PIN Code: 34/1000,
NH-7, Edapally, Kochi - 682024, India **… Respondent No. 3**

Present :

For Appellants : Mr. Arun C. Mohan, Advocate

For Respondents : Mr. VVSN. Raju, Advocate for R1 / RP
Mr. Palash Taing, Advocate for R2 / CoC

J U D G M E N T
(Hybrid Mode)

Per : Justice Sharad Kumar Sharma, Member (Judicial):

1. Heard Ld. Counsel for the parties with their consent.

2. The Company Appeal is being decided finally, at this stage.

3. The Company Appeal is accompanied with a Condone Delay Application, where the Appellant has sought a condonation of 12 days of delay that, has chanced in preferring the Company Appeal, by filing **IA No. 1121 / 2025**.

4. According to the pleadings raised by Appellant there happens to be 13 days of delay that has chanced in preferring the Appeal, which has been otherwise reported by the Registry to be 12 days.

5. Having considered the reasons which has been given, particularly on the ground that the impugned order itself was uploaded on 27.03.2025 and 30 days from the said date i.e. 27.03.2025, would be expiring on 26.04.2025 and as the Company Appeal was preferred on 07.05.2025, the number of days of delay that, has chanced will be falling well within the upper time limit of 45 days as prescribed under the proviso to sub-section (2) of Section 61 of I & B Code, 2016.

Thus, owing to the reasons, which has been given in Para Nos. 3.2 & 3.3, since being satisfactory, the 12 days of delay that has chanced in preferring the Appeal would stand condoned.

6. The controversy at hand, takes its birth from an order that, was passed by the Ld. NCLT-II, Hyderabad, on **IA (IBC) / 439 / 2025** which was preferred in **CP (IB) No. 296 / 7 / HDB / 2022.** The consequential effect of passing of the impugned order was, that the Interlocutory Application, which was thus preferred by the Appellant, allegedly invoking the provisions contained under Section 60(5) of I & B Code, 2016, to be read with Rule 11 of the NCLT Rules, 2016, was rejected, on the ground that the Appellant / Applicant, since not being Resolution Applicant, has no locus standi to raise the objection, that applications filed by an unsuccessful Resolution Applicant i.e. M/s. Vasavi Realty and the Applicant, challenging the Resolution Plan have already been dismissed, and that no grounds have been made out to show that there is a violation of provisions of Section 30(2) of I & B Code, 2016, in the process of approval of the Resolution Plan.

7. Brief facts, which engage consideration are;

(i). That the Corporate Debtor i.e. M/s. Manjeera Retail Holdings Private Limited, was admitted to the CIRP proceedings by an order that, was passed on 18.07.2023, Form A inviting submission of claims was issued on 21.07.2023 and Form G calling for Expression of Interest (EoI) was published on 22.09.2023.

(ii) The Appellant herein submitted Expression of Interest on 22.10.2023 of the Corporate Debtor, and was shortlisted as a Prospective Resolution Applicant (PRA), having been found to be eligible for submission of the Resolution Plan and that, his name was listed at Serial No. 20 in the final list of Prospective Resolution Applicants.

(iii) That he could not submit his Resolution Plan and his plea to extend the timeline to submit Resolution Plan was negatived.

(iv) The Resolution Plan, which was submitted by Respondent No. 3 i.e. M/s. Lulu International Shopping Malls Private Limited, was approved by the Committee of Creditors on 22.03.2024, an Application IA (IBC) (Plan) No. 8 / 2024, was preferred by the Resolution Professional before Ld. NCLT, Hyderabad, on 28.03.2024, for approval of the said Resolution Plan, and the orders on the same has been reserved on 04.03.2025.

8. In the Interlocutory Application IA (IBC) / 439 / 2025, preferred before Ld. NCLT, the Applicant had contended that he was unable to complete the due diligence process, within the stipulated prescribed time frame, owing to sheer size and complex structure of the Corporate Debtor (CD), and that his request for extension of time for submitting the Resolution Plan was rejected. Further, he had submitted that, before the CIRP process, the Corporate Debtor had entered into

an agreement for sale with Neha Kausar Hafeezunnisa Begum, Srinivas Kalluri, Rajni Kalluri and M.V.M. Mohan and received the entire payment, but, could not execute the Sale Deed, because of disputes between the Corporate Debtor and Telangana State Housing Board (TSHB) that subsequent to the filing of the Application for seeking approval of the Resolution Plan i.e. IA (IBC) (Plan) No. 8 / 2024, these purchasers who could not get the title of the units purchased, transferred in their name due to the prevailing dispute between the Corporate Debtor and Telangana State Housing Board, approached Ld. Adjudicating Authority by filing IA No. 384 / 2024, IA No. 971 / 2024 & IA No 1815 / 2024, for redressal of their grievances. All these Interlocutory Applications were disposed of by the Ld. Adjudicating Authority, with a direction to the Resolution Professional to include the liabilities of the Corporate Debtor towards the said Applicants, in the Information Memorandum and if it is already included, to inform the Applicants about the same within 7 days from the date of passing of the order. However, despite of the aforesaid directions, the Respondent No. 1, failed to incorporate the aforesaid liabilities and disputes to update the Information Memorandum which effectively prevented him from formulating a viable Resolution Plan, as these informations were critical in nature.

9. He had further contended that, in view of the aforesaid short coming in the Information Memorandum of the CIRP process was vitiated and hence, had prayed for declaring the action of RP / 1st Respondent in not revising the

Information Memorandum dated 19.01.2024 in terms of directions issued in orders dated 11.06.2024, 17.09.2024 and 13.02.2025 rendered in IA No. 384 / 2024, IA No. 971, 972, 492 & 314 / 2024 and in IA No. 1815 / 2024 respectively, as contrary to I & B Code, 2016, and to set aside the CIRP process from the stage of issue of Information Memorandum (IM) and to direct the RP to issue revised IM and to call for fresh Resolution Plans.

10. When the said Interlocutory Application IA (IBC) / 439 / 2025 came up for consideration before the Ld. Adjudicating Authority, the Resolution Professional took a specific stand that the Applicant i.e. the Appellant herein, have not approached the Tribunal with clean hands and that by instituting the present Interlocutory Application, he is indirectly attempting to obtain the relief that, he was unable to secure directly, that following the disposal of the IAs referred to therein, the Successful Resolution Applicant (SRA) was duly informed to incorporate the same in its Resolution Plan and he has undertaken to comply with the directions of Ld. Tribunal, the liabilities in question were already disclosed in the financial statements, which formed to be the integral part of the Information Memorandum, and that the Information Memorandum was prepared with due diligence and care and that in any case, PRAs were expected to conduct their own due diligence on the assets and liabilities of the Corporate Debtor.

11. The Successful Resolution Applicant, on his part had submitted that M/s. Vasavi Realty, had also filed IA (IBC) / 773 / 2024, challenging the Resolution

Plan which was dismissed on 11.06.2024, and that in the said Application, the Applicant herein had filed an Intervention Petition No. 20 / 2024, seeking themselves to be impleaded so as to be able, challenge the approval of the Resolution Plan of the SRA which was also dismissed by the Ld. Adjudicating Authority on 13.06.2024.

12. He had further stated that the Appellant herein, had preferred two Company Appeals being Company Appeal (AT) (CH) (INS) No. 342 / 2024 & Company Appeal (AT) (CH) (INS) No. 343 / 2024, as against the dismissal of the above two Applications, which were heard by this Appellate Tribunal and decided together by the Judgment dated 20.12.2024, in which the Appeals were dismissed.

13. The Ld. Adjudicating Authority, after hearing both sides had recorded in its findings that the Appellant was shortlisted as a PRA, that he failed to submit his Resolution Plan within stipulated deadline of 18.03.2024, that almost a year later, when the Resolution Plan is reserved for orders, he has prayed for issue of fresh Form G on the grounds of the Information Memorandum being incomplete and defective, that the so-called defects in Information Memorandum are not material enough to warrant issue of Form G afresh, that no grounds have been made out to show violation of Section 30(2) of I & B Code, and that the Appellant / Applicant has no locus to challenge the Resolution Plan, not being a Resolution Applicant and having got his Application before NCLT and his Appeal before

NCLAT, challenging the Resolution Plan rejected and accordingly proceeded to dismiss the said Application i.e. IA (IBC) / 439 / 2025.

14. We have heard the Appellant and the Respondents. It is to be noted that we have already dismissed the Company Appeals being Company Appeal (AT) (CH) (INS) No. 342 / 2024 & Company Appeal (AT) (CH) (INS) No. 343 / 2024, what we would be concerned more at this stage is, the order that was passed in Company Appeal (AT) (CH) (INS) No. 342 / 2024. In Company Appeal (AT) (CH) (INS) No. 342 / 2024, the Appellant has challenged the impugned order of 13.06.2024, by virtue of which, the Intervention Petition preferred by the Applicant, being IA No. 20 / 2024 as preferred in CP (IB) No. 296 / 7 / HDB / 2022, had been rejected. When this Company Appeal came up for consideration before us, we had considered the controversy in its entirety, particularly from the view point as to what right did the Appellant have so as to make him the necessary party to intervene in the said Company Petition and had come to the conclusion holding thereof that, the Appellant under the given facts would have no right, for reason being that, the revised plan that, was submitted by the Appellant was already rejected and the rejection of the plan has not been challenged and that order of rejection of plan has attained finality.

15. The relevant observations that were made by us, while dismissing the two Company Appeals preferred by the Appellant by the Judgment dated 20.12.2024 are extracted hereunder:

``Ultimately it could be concluded that in both the appeals since:

1. The revised plan submitted by the Appellant has been rejected and the rejection of the plan has not been challenged has attained finality, has no locus to agitate a cause by intervention or by challenging approval of Resolution Plan.

2. Since the Resolution Plan of the Appellant has been rejected, he has no locus standi to either intervene or to put a challenge to the process of the approval of the Resolution Plan granted in favour of M/s Lulu International shopping malls Private Limited.

3. When the Intervention itself has been rejected and the said order has already been affirmed by this Tribunal in the preceding paragraph of today's Judgment, the right of the appellant to put a challenge to the approval of the decision plan automatically itself seizes.

4. Since the Resolution Plan of the Appellant has been rejected, he will not be falling within the domain of an aggrieved person, which could grant him, with the liberty to put a challenge to process of the approval of the Resolution Plan. Owing to the above the Appeals aforesaid lack merit and the same are accordingly dismissed.''

16. As far as the Judgment rendered by us on 20.12.2024 in Company Appeal (AT) (CH) (INS) No. 342 / 2024 & Company Appeal (AT) (CH) (INS) No. 343 / 2024 is concerned, it is not the case of the Appellant that, the said Judgment was ever challenged by him before the Hon'ble Apex Court and hence, we have to proceed on the premise that, the order of Ld. NCLT rejecting the prayer of the Appellant to permit him to intervene in the Company Petition deciding on the Resolution Plan which was affirmed by us on 20.12.2024, has reached finality and therefore, as of now, the Appellant would not have any locus as such, to again challenge the same Resolution Plan in the garb of alleging deficiencies and short

comings in the Information Memorandum by filing an IA (IBC) No. 439 / 2025 which has rightly been rejected by Ld. NCLT,

17. There would be a few reasons, as to why the Appellant does not have any locus on the controversy as such which are given below:-

a) The rejection of his Intervention Petition i.e. IA No. 20 / 2024, which has been rejected by Ld. Tribunal by the Order of 13.06.2024, has been confirmed by this Appellate Tribunal with the dismissal of the Appeal by the Judgment of 20.12.2024, where, the Appellant was determined not to be the necessary party to the proceedings at any point of time, and even as on today.

b) Despite of the publication having being made on 08.12.2023, inviting the Resolution Plan to be submitted before the cutoff date i.e. 18.03.2024, the Appellant had failed to submit the Resolution Plan within the time period prescribed thereunder. Hence, he will have no locus as such to seek for a revision in the Information Memorandum as sought for by filing IA (IBC) No. 439 / 2025.

c) The said Application i.e. IA (IBC) No. 439 / 2025 has been filed, praying for issue of a fresh Form G after a lapse of almost one year from the last date of submission of the Resolution Plan i.e. 18.03.2024 and hence, it has to be surmised that no fruitful objective was ever intended to be achieved by him by filing IA (IBC) / 439 / 2025, except to derail the decision-making process and resolution of Insolvency of the Corporate Debtor in the proceedings of CP (IB) No. 296 / 7 / HDB / 2022.

18. This Tribunal finds no occasion or ground to differ from the stand taken by the Ld. NCLT that it cannot interfere or question the commercial wisdom of CoC and remit the Resolution Plan for reconsideration unless there are express violation of Section 30(2) of I & B Code, 2016. Further it is seen that the information gaps has not impacted the Resolution Plan. The new information, as attempted to be imparted by the Appellant of certain units having been already sold off will have the effect of reducing asset value of Corporate Debtor. In normal circumstances, this would reduce the Resolution Value. But, since the SRA has acknowledged the liability, there is no need to reconsider the Resolution Plan approval process. Thus, under the given set of facts and circumstances, the proceedings resorted to by the Appellant, seeking for a re-run of the Resolution Process under garb of a faulty Information Memorandum appears to have been done with the mala-fide intent to derail the process, especially when the rights of the Appellant, to intervene in the said process have already been determined in a negative by the earlier Judgments rendered by the Ld. Tribunal and this Appellate Tribunal.

19. In that eventuality, when the Appellants, has no right and are not likely to be adversely affected by any orders to be passed on the Resolution Plan submitted by the SRA / Respondent No. 3, the Appellant would have to be taken as to be altogether an intruder to the proceedings and he would not be, at all required to be heard or be treated to be affected by the impugned order, which has been passed on 26.03.2025, holding that, the Application IA (IBC) No. 439 / 2025 at the behest of the Appellant would not be maintainable, because, the Appellants Intervention Petition has been rejected by the Order of 13.06.2024, and affirmed by this Appellate Tribunal and because, the Appellant would not be the necessary party for the purposes of filing of the said Application, besides also because he was not even an unsuccessful Resolution Applicant.

20. Owing to the aforesaid, the Company Appeal (AT) (CH) (INS) No. 379 / 2025, lacks merit and the same is accordingly dismissed. All pending Interlocutory Applications are closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

13/10/2025

SR/MS/AK