



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT – II)**

**Item No. 201**  
**IB-678/ND/2025**  
**New Ivn-21/ND/2026**

**IN THE MATTER OF:**

**Smt. Annu Anand** ... **Applicant/ Creditor**

**Versus**

**WTC Noida Development Company Pvt. Ltd.** ... **Guarantor to the  
Corporate Debtor**

**AND IN THE MATTER OF Ivn-21/ND/2026:**

**DYS Royals Pvt. Ltd.**

Through Authorized Representative  
Office No. 245, 2<sup>nd</sup> Floor, MP Mall MP Block,  
Pitampura, Delhi North West, Delhi-110034

... **Applicant/Intervenor**

**Versus**

**WTC Noida Development Company Pvt. Ltd.**

GF-09, Plaza M6,  
District Centre, Jasola, New Delhi-110025

... **Respondent/  
Corporate Debtor**

**Under Section: 7 of IBC, 2016**

**Order delivered on 23.04.2026**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**

**SH. ATUL CHATURVEDI, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** : Advocate Aditya Wadhwa, Abhyankar Panth, Arunav  
Sarma, Adv. Abhindra K. Maheswani, Adv. Mohan  
Singh

**For the Respondent :**

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORAL ORDER**



**Ivn-21/ND/2026:** Ld. Counsel for the Applicant submitted that the Applicant is someone, who wants to invest Rs. 200 crores in the Corporate Debtor, thus should be allowed to be impleaded in the application under Section 7 of IBC, 2016. In our considered view, the object of the IBC is to put the Corporate Debtor back to its feet. The proceedings are not to be sought as a tool for the determination of dispute between the Creditor and the Debtor. The Disputes may arise only at the stage where IRP/RP invites the claim and bidders to submit plans. As can be seen from the provisions of Section 7(3) & (5), at this stage we need to satisfy ourselves regarding debt and default only. Besides these requirements, we need to satisfy ourselves regarding the fact that no legal proceedings are pending against the IP proposed to be appointed as IRP. In **Bank of Baroda vs. Arch Pharmalabs Limited in C.P. (IB)-686 (MB)/2023** etc. Bombay Bench of this Tribunal viewed that no person except Corporate Debtor has right to claim for hearing at the stage of admission of an application preferred under Section 7 of the Code. Paras 34 to 42 of the order reads thus:-

*“34. On the other hand, the Ld. counsel for the Respondent/Financial Creditor has argued that it is well settled that intervention at pre-admission stage is not maintainable. In support of his contentions, the Ld. Counsel for the Respondent has relied upon **Deb Kumar Mujumdar Vs. State Bank of India Company Appeal (AT) (Ins.) No. 44/2018** whereby it was held by the Hon’ble NCLAT that no person has a right to claim for hearing except the Corporate Debtor at the stage of application filed under Section 7 of the Code and no other financial creditor or operational creditor is required to be heard at that stage. The Ld.*



Counsel for the respondent has further relied upon **Company Appeal (AT) (Ins.)676 of 2019 L&T Infrastructure Finance Company Ltd. Vs Gwalior Bypass Project Ltd.** whereby also the similar view was taken while holding that a member/shareholder has no right to intervene to oppose admission of application under section 7. The Ld. Counsel for the respondent has also relied upon **Company Appeal (AT) (Ins.) 436-437/2019 Damont Developers Pvt Ltd. Vs Bank of Baroda and anr. as well as Company Appeal (AT) (ins) 113 of 2021 Vikas Kumar Garg Vs DMI Finance Private Limited and another.**

35. The Ld. Counsel for the Respondent further relied upon **Company Appeal (AT) (Ins) 1231 of 2022 CFM Asset Reconstruction Private Limited Vs. Saudi Basic Industries Ltd Corporation Ltd and anr.** whereby it was held that ordinarily, a financial creditor cannot be allowed to intervene in the proceeding under Section 9 but as an exception, a financial creditor can intervene if there are reasons and allegations which require consideration by the Adjudicating Authority.
36. As regard the contention raised by the Ld. Counsel for the applicant with regard to applicability of the law laid down by the Supreme Court in the matter of **Vidarbha Industries Power Ltd. Vs. Axis Bank Ltd (Supra)**, it has been contended by the Ld. counsel for the Respondent that in the context of the facts and circumstances of the present case, no parallel can be drawn as in the instant case there are no circumstances existing nor any such circumstances have been brought on record to show that the Corporate Debtor is financially sound enough to sustain itself.



37. *The Ld. Counsel for the Respondent has further argued that the plea raised on behalf of the applicant with regard to the provisions of section 12A of the Code is also erroneous. According to the Ld. Counsel of the Respondent, even a cursory look at the provisions of Section 12A would reveal that only the applicant, who initiated the CIRP proceedings, is entitled to withdraw the proceedings subject of course to the approval of 90% member of the CoC.*
38. *We have thoughtfully considered the rival contention raised by the Ld. Counsel for the parties and have also carefully gone through the record.*
39. *In our considered view, at the stage of admission in a petition under Section 7 of the Code, ordinarily no intervention is permissible as has been held by the Hon'ble NCLAT in number of cases relied upon by the Ld. Counsel for the Respondent/ Financial Creditor. In **CFM Asset Reconstruction Private Limited Vs. Saudi Basic Industries Corporation Ltd and Anr. (Supra)** also, it has been clarified that as held by the Hon'ble Supreme Court, in exceptional circumstances, a Financial Creditor can be permitted to intervene in an application under Section 9 if there are reasons and allegations which require consideration. Moreover, the said case, in which permission to intervene was granted to a Financial Creditor, was a case filed under Section 9 and not under Section 7.*
40. *So far as the case law referred to and relied upon by the Ld. Counsel for the applicant in **Madhusudan Gordhandas Vs Madhu Woollen Industries Pvt Ltd. (Supra), IDFC Bank Ltd. Vs Ruchi Soya Industries Ltd. (Supra), Focus Advertising Pvt Ltd. Vs Ahura Blocks Pvt Ltd. (Supra)** are concerned, in our considered view, the same cannot be applied to the facts and*



*circumstance of the present case on the ground that the same dealt with the situation of winding up under the Companies Act, 1956 or 2013. Here one cannot be oblivious of the fact that dynamics of Insolvency and Bankruptcy Code, 2016 are different which represent a paradigm shift from the earlier regime under the Companies Act. Therefore, whatever was relevant at pre-winding up stage in proceedings under the Companies Act cannot be said to germane at pre-admission stage of section 7. Besides, winding up of a company under the Companies Act cannot be equated its resolution under the IB Code, 2016.*

41. *So far as the applicability of the law laid down in ‘**Vidarbha Industries**’ case is concerned, again in the context of the instant case, no special circumstances have been highlighted by the counsel for the applicant which could indicate that the Corporate Debtor has sufficient resources at its disposal to sustain itself financially and it can be perceived to pay off its liabilities to the creditors in the near future. Here one cannot be unmindful of the fact that admittedly the Corporate Debtor owes a sum of Rs. 130 Crores to the Respondent. Even if the same may be a meagre amount when compared with the outstanding dues of the intervener which are stated to be to the tune of Rs. 9500 Crores the intervener cannot be allowed to usurp the legitimate rights of the other financial creditors to pursue the remedies available under the law. In any case, an amount of Rs. 130 odd crores are also not a mean amount.*
42. *As regards the contention raised on behalf of the applicant that the admission of the application under Section 7 of the Code would be a futile exercise in the light of the fact that since the intervener holds more than 90% of the financial debts and the*



*petition would be defeated under Section 12A of the Code, at this stage we can only say that prima facie, post admission, only the applicant who files the application, has the right to withdraw and after the formation of the CoC such withdrawal requires approval of 90% of the CoC members. Be that as it may, at this stage, we do not deem it appropriate to allow the intervention application merely on the assumption that the intervener holds more than 90% of the debt of the Corporate Debtor and at its behest, the Petition would be defeated u/s 12A of the Code, 2016. As stated earlier, a financial creditor holding more share in the total debt cannot be allowed to arm-twist the other creditors.”*

**In the wake of the aforementioned order passed by Mumbai Bench of this Tribunal, following the view taken by Hon’ble NCLAT, the IA is found misconceived and the same is rejected.**

**CP(IB)-768/ND/2025:** The present application has been preferred by 145 Applicants claiming themselves to be Allottees of the Corporate Debtor i.e. WTC Noida Development Company Pvt. Ltd. According to the Ld. Counsel for the Applicant, there are 3409 total commercial units in the project. However, 125 units are allotted to the 145 Allottees who are Applicants before us. As can be seen from the provisions of Section 7(1) of IBC, 2016, for financial creditors who are Allottees under a real estate project, an application for initiating Corporate Insolvency Resolution Process against the CD shall be filed jointly by not less than one hundred of such Allottees under the same real estate project or not less than 10% of total number of such Allottees under the same real estate project. The second proviso to Section 7(1) of the Code reads thus:-



***“7. Initiation of corporate insolvency resolution process by financial creditor.—(1)***

.....

*Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:”*

**2.** The other requirements to be met in the application preferred under Section 7(1) & (2) of IBC, 2016, are that a default should have occurred and the application under Section 7(5) of the Code is complete and there is no disciplinary proceedings pending against the proposed RP. Section 7(5) of the Code reads thus:-

***“7. Initiation of corporate insolvency resolution process by financial creditor.—***

.....

*(5) Where the Adjudicating Authority is satisfied that—*

*(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or*

*(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:*

*Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.”*



3. In the present case, in part-IV of the application, it has been mentioned that the total amount of debt repayable to the Financial Creditor is Rs. 39,05,44,675.64/- (Rupees Thirty Nine Crore Five Lakh Forty Four Thousand Six Hundred Seventy Five and Sixty Four Paisa Only). In the brief facts mentioned in the said part, it has been stated that the Corporate Debtor herein was incorporated on 19.12.2007 and it is involved in Real Estate Development Activities such as buying, selling, renting and operating of self-owned or leased real estate, including activities like developing and subdividing land, as well as managing apartment buildings and non-residential structures. It is the case of the applicants that they booked the units in the project allotted by the Corporate Debtor during the period of 2017-2021 and the possession of the allotted units were to be handed over to them on 31.12.2024. According to them the date 31.12.2024 was fixed even by RERA for completion of the project. The relevant excerpt of Part-IV of the petition reads thus:-

**PART - IV**

<b>PARTICULARS OF FINANCIAL DEBT</b>	
<b>1.</b>	<b>PARTICULARS OF FINANCIAL DEBT GRANTED AND DATE OF DISBURSEMENT</b>
	<p>The total amount of debt as agreed to the Financial Creditors is Rs.39,05,44,675.64/- (Rupees Thrity Nine Crore Five Lakh Forty Four Thousand Six Hundred Seventy Five and Sixty Four Paisa Only) towards the Principal amount of money collected by the Corporate Debtor from the Financial Creditors under various schemes floated by the Corporate Debtor in context with projects namely "WTC NOIDA".</p> <p><b>BRIEF FACTS OF THE CASE ARE AS UNDER:-</b></p> <p>The present application is a joint application being filed under the provisions of Section 7(1) of IBC, 2016 on behalf of 145 allottees (holding an interest in 125 Units out of 3409 Units in the subject property) who have booked commercial units with the Corporate Debtor.</p> <p><b>A tabular chart showing:-</b></p>



- (i) The name of the Financial Creditors;
  - (ii) The unit number of the allotted Commercial Units;
  - (iii) The date of Builder Buyer Agreement;
  - (iv) The date of possession of commercial units as per Builder Buyer Agreement or Date of Default;
  - (v) The cost of each commercial unit;
  - (vi) The principal amount paid by them;
  - (vii) The claim amount including the interest;
- is annexed hereto and marked as **Annexure P-4**

That the Corporate Debtor herein is incorporated on 19<sup>th</sup> of December 2007, involved in Real Estate development activities such as buying, selling, renting and operating of self-owned or leased real estate, including activities like developing and subdividing land, as well as managing apartment buildings and non-residential structures.

That upon being lured by the Corporate Debtor, through various advertisements and lucrative brochures, the Financial Creditors herein approached the Corporate Debtor and applied for allotment of a units in the Project "WTC NOIDA".

The Corporate Debtor had issued Allotment letter to each Financial Creditor/Allottee and had promised to construct and deliver possession of flats to the Unit buyers within the stipulated time. Thereafter, the Corporate Debtor had executed Builder Buyer Agreement in favour of Unit buyers.

Each Financial Creditor was issued Builder Buyer Agreement, duly signed by the Corporate Debtor with an acknowledgement of the amount paid. The Builder Buyer Agreement executed with the Financial Creditors herein alongwith acknowledgement/payment receipts issued by the Corporate Debtor are annexed hereto and marked as **Annexure P-5(Colly)**.

However, the Corporate Debtor failed in its commitment to offer the possession of the commercial units as promised by it and further failed to refund the amount with interest of 9% p.a. as per

the clause of 9.2 of the Builder Buyer Agreement. This failure of the Corporate Debtor to offer allotment of Unit and compensation upon failure to deliver possession amounts to default for the purposes of the present petition under the Code.

**2. AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)**

Date of Default : 31.12.2024

The total amount of financial Debt as regards to the Financial Creditors is Rs.39,05,44,675.64/-(Rupees Thrity Nine Crore Five Lakh Forty Four Thousand Six Hundred Seventy Five and Sixty Four Paise Only) towards the principal amount of money collected by the Corporate Debtor from the Financial Creditors.



This Principal amount includes the interest @9%p.a. as per the 9.2 clause of the Builder Buyer Agreement.

As per the Builder Buyer Agreement executed on various dates with the Financial Creditors in the class during the years 2013-2024, the Corporate Debtor was bound to complete the project and hand over the possession till 31.12.2024 as mentioned in the Builder Buyer Agreement. Further it is pertinent to mention that the above-mentioned default is a continuing default on part of the Corporate Debtor, therefore the present application is well within the limitation period.

A tabular chart showing:-

- (i) The name of the Financial Creditors;
- (ii) The unit number of the allotted Commercial Units;
- (iii) The date of Builder Buyer Agreement;
- (iv) The date of possession of commercial units as per Builder Buyer Agreement/Date of Default;
- (v) The cost of each commercial unit;
- (vi) The principal amount paid by them;
- (vii) The claim amount including the interest;

is annexed hereto and marked as **Annexure P-4**

4. It can also be seen from Schedule 'A' to BBA dated 14.09.2018 that the possession of the allotted unit was to be handed over by 31.12.2024. The relevant excerpt of the schedule reads thus:-

Particulars of RERA Authority		
17.	Name of RERA Authority where Project has been registered	Real Estate Regulatory Authority Uttar Pradesh
18.	Number at which project is registered with RERA Authority	UPRERAPR3504
19.	Date of Registration	31.07.2017
20.	Date of Completion of Project as per RERA Registration as well as date of offer of possession of Unit by Promoter	31.12.2024

5. Indubitably, in the cases covered by explanation to Section 5(8)(f) of the Code, the default is committed when the possession is not handed over to the



Allottees by due date. In the present case, apparently, when the possession is not given by due date, the default is established. The written communication by the proposed IRP in prescribed form viz. Form-2 is available on record at Annexure P-3 to the application. In the consent form the IP has declared that no legal proceedings are pending against him. The Form 2 reads thus:-

**FORM 2** 164  
 (See sub-rule (1) of rule 9)  
 (Under rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)  
 WRITTEN COMMUNICATION BY PROPOSED INTERIM RESOLUTION PROFESSIONAL  
 -17.11.2025

**To,**  
 The National Company Law Tribunal  
 New Delhi Bench

**From,**  
 Mr. Abhimanyu Mittal  
 29, First Floor, The White House,  
 Sector-57, Gurgaon,  
 Haryana-122003

**In the matter of WTC NOIDA DEVELOPMENT COMPANY PVT. LTD.**  
**Subject: Written communication in connection with an application to initiate corporate insolvency resolution process in respect of WTC NOIDA DEVELOPMENT COMPANY PVT. LTD.**

Dear Madam/Sir,

I, Abhimanyu Mittal, an insolvency professional registered with Indian Institute of Insolvency Professional of ICAI having registration no. IBBI/PA-001/IP-P01870/2019-2020/12893 have been proposed as the interim resolution professional by Financial Creditors in connection with the proposed corporate insolvency resolution process of WTC NOIDA DEVELOPMENT COMPANY PVT. LTD. In accordance with rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, I hereby:

- (i) agree to accept appointment as the interim resolution professional if an order admitting the present application is passed;
- (ii) state that the registration number allotted to me by the Board is IBBI/PA-001/IP P01870/2019-2020/12893 and that I am currently qualified to practice as an insolvency professional;
- (iii) disclose that I am currently having the following assignments in hand:

Sl. No.	Assignment as	Number of Assignment(s)	No.	Name of corporate debtor	Date of commencement of process	Expected date of closure of process
<b>Corporate Processes</b>						
1	IRP	2	1	OFB Tech Private Limited	10-Nov-23	
			2	OUR CO. INFRASTRUCTURE DEVELOPERS PRIVATE LIMITED	17-Feb-25	
2	RP	2	1	MKS Oil Private Limited	02-Dec-2019	
			2	Hygiene Feeds & Farms Private Limited	18-July-2022	
3	Liquidator (including voluntary)	0	1			
			2			



	Liquidations)			165	
4	Authorised Representative	0	1	Piyush Shelters India Pvt Ltd	
			2		
			3		
Individual Processes					
5	Resolution Professional	4 PG of Oyster Chemicals Pvt. Ltd.	PG's of Oyster Chemicals Pvt. Ltd. in the matter of Bank of Baroda		
6	Bankruptcy Trustee	0			
7	Any other.	0			

- (iv) certify that there are no disciplinary proceedings pending against me with the Board or Indian Institute of Insolvency Professional of ICAI;
- (v) affirm that I am eligible to be appointed as a resolution professional in respect of the corporate debtor in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;
- (vi) make the following disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
  - (i) That I am eligible to be appointed as Interim Resolution Professional for corporate insolvency resolution process of the Corporate Debtor, namely, WTC NOIDA DEVELOPMENT COMPANY PVT. LTD. as provided in Regulation 3 of Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations, 2016.
  - (ii) That I am independent of the said Corporate Debtors, as I fulfill the conditions as mentioned in the Explanation to the said Regulation 3, i.e.:
    - (a) I am eligible to be appointed as an independent director on the board of the said corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013).
    - (b) I am not a related party of the corporate debtor;
    - (c) I am not an employee or proprietor or a partner:
      - (i) of a firm of auditors or company secretaries in practice or cost auditors of the corporate debtor; or
      - (ii) of a legal or a consulting firm, that has or had any transaction with the corporate debtor amounting to ten per cent or more of the gross turnover of such firm, in the last three financial years.
    - (d) That I shall abide by the Code of Conduct as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

6. The Form-B regarding the authorization of assignment is also available on record as Annexure P-3 to the application, which reads thus:

**FORM B**

**AUTHORISATION FOR ASSIGNMENT**

(Under bye-law 12A of the Agency's Bye-laws)

No: AA/12893/02/311225/107597

Date: 01/11/2024

This authorisation for assignment is issued to **Abhimanyu Mittal**, who is enrolled as a professional member of the **Indian Institute of Insolvency Professionals of ICAI** with professional membership no. **IP/P-01870** and registered with the Insolvency and Bankruptcy Board of India as an insolvency professional with registration no. **IBB/IPA-001/PP-01870/2019-2020/12893** under the Insolvency and Bankruptcy Code, 2016.

This authorisation is valid from **01/11/2024** to **31/12/2025**



Place : New Delhi

Date : 01/11/2024

7. From the aforementioned, it is clear that the requirement of Section 7(3) & (5) are met. As far as the Corporate Debtor is concerned, initially the Applicant in Ivn-21/ND/2026 emphasized that the Applicant viz. DYS Royals Private Limited wants to invest Rs. 200 crores in the Corporate Debtor, thus they should be allowed to be impleaded and hearing should be deferred. Only when we dismissed the said application then one counsel entered appearance on behalf of the Corporate Debtor virtually, and submitted that there are other applications pending before Court-VI seeking initiation of CIRP, thus, the present application needs to be transferred to the said court. Then he submitted that he is neither particular about transfer of present application to Court-VI nor about transfer of those applications which are pending before Court-VI to this court. We are of the considered view that when CIRP is ordered to be commenced in one application, all other creditors are entitled to stake their claim before IRP appointed in the proceedings/CIRP ordered to be commenced with reference to the application preferred by any of the Creditors. Thus, no request for adjournment in an application preferred under Section 7 of IBC, 2016 can be entertained on the ground that the applications preferred by other creditors initiating CIRP in respect of the same Creditor are pending before different Courts and need to be clubbed. The proceedings under Section 7 of the IBC, 2016 cannot be perceived



as dispute between the parties. Once all the creditors are entitled to stake their claim before the IRP appointed in the proceedings commenced in respect of one application, there can be no logic/justification to move application for clubbing or transfer of applications preferred by different creditors against the same debtor. When such submissions are made, the only inference which can be drawn is that there is an attempt to delay the process. When Section 7(4) of IBC, 2016, specifically provides that the Adjudicating Authority should, within 14 days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of the information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3) an endeavor needs to be made to adhere to the statutory provision. The provision of sub-section (4), expect this Adjudicating Authority to record reasons, if the timeline given in Section 7(4) is not adhered. Section 7(4) reads thus:-

***“7. Initiation of corporate insolvency resolution process by financial creditor.—***

.....

*(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3).*

*[Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.]”*

**8.** Of course, there are judgments by Hon’ble Supreme Court making it clear that the timelines provided in IBC are not binding, but we cannot interpret the judgments as if we should not follow the statute specifying the timeline at all.



The ramification of the view taken by the Hon'ble Supreme Court is that in appropriate cases, where circumstances so require, we may relax the timeline, the same being not binding on us. In a case, where multiple strategies are evolved to ensure deferment of hearing, we need to be watchful and conscious. In the present case, the Counsels for Intervenor and Corporate Debtor took turns in participating in the proceedings virtually and only when we disposed of intervention application, the proxy counsel for the CD appeared only to say that the CD was in the process of filing an application for transferring the present proceedings from this Bench. It would not be gainsaid that now a days, particularly before this Tribunal, instead of assisting the Court on law and facts the parties evolve strategies to take the judicial proceedings in the direction of their choice, by resorting to strategic processes. In view of the Judgment passed by the Hon'ble Supreme Court in the case of **Swiss Ribbons Pvt. Ltd. & Anr. Vs Union of India & Ors.**, reported in (2019) 4 SCC 17 before a satisfaction under Section 7(5) of IBC, 2016 is arrived at an opportunity to file reply needs to be given to CD. The Paragraph 58 reads as follows:

*"...A conjoint reading of all these Rules makes it clear that at the stage of the Adjudicating Authority's satisfaction under Section 7(5) of the Code, the corporate debtor is served with a copy of the application filed with the Adjudicating Authority and has the opportunity to file a reply before the said authority and be heard by the said authority before an order is made admitting the said application."*

Also, in the matter of **M/s Surendra Trading Company Vs. M/s Juggilala Kamlapat Jute mills Company and Ors.** Reported in 2017 SCC online SC143, the Hon'ble Supreme Court viewed thus:



*“Further, we are of the view that the judgments cited by the NCLAT and the principle contained therein applied while deciding that period of fourteen days within which the adjudicating authority has to pass the order is not mandatory but directory in nature would equally apply while interpreting proviso to sub-section (5) of Section 7, Section 9 or sub-section (4) of Section 10 as well. After all, the applicant does not gain anything by not removing the objections inasmuch as till the objections are removed, such an application would not be entertained. Therefore, it is in the interest of the applicant to remove the defects as early as possible.”*

In ***Innovative Industries Vs ICICI Bank reported in 2018 1 SCC 407***, the Hon’ble Supreme Court viewed as under:

*“The different decisions of the Hon'ble Supreme Court, as referred to above and exception of principles of natural justice as noticed and summarised in the preceding paragraphs is not applicable to the insolvency resolution process as it is not a case of emergency declared or prejudicial to public interest or that there is a statutory exclusion of rules of natural justice or it is impracticable to hold hearing. It is not the case that no right of any person has been affected, as immediately on appointment of an Interim Resolution Professional, the Board of directors stand superseded. There are other persons who are also affected due to order of moratorium. Therefore, the ‘adjudicating authority’ is duty bound to give a notice to the corporate debtor before admission of a petition under Section 7 or Section 9.”*

9. Subsequently, when we were in the middle of dictation, Mr. Aditya Wadhwa, Ld. Counsel appeared for the Corporate Debtor and submitted that he has reservation regarding dictation of the order by this Court and he wants to rely upon the judgment of Hon’ble Supreme Court in the case of ***Mansi Brar Fernandes***. Having submitted so, he espoused that the Applicants hereinbefore us are speculative investors and are not the genuine Homebuyers. Ld. Counsel for the Applicant could handover a copy of the judgment passed by Hon’ble



Supreme Court in ***Mansi Brar Fernandes vs. Shubha Sharma and Anr in Civil Appeal No. 3826 of 2020***. The term Speculative Investor has been defined in by Hon'ble Supreme Court in para 18.1 of the judgment. The paras 18.1, 18.4 and 18.4.5. of the judgment reads thus:-

*“18.1. The determination of whether an allottee is a speculative investor depends on the facts of each case. The inquiry must be contextual and guided by the intent of the parties. Indicative factors include: (i) the nature and terms of the contract; (ii) the number of units purchased; (iii) presence of assured returns or buyback clauses; (iv) the stage of completion of the project at the time of investment; and (v) existence of alternative arrangements in lieu of possession. Possession of a dwelling unit remains the sine qua non of a genuine homebuyer’s intent.*

**X X X**

*18.4. “Speculation” has been defined in P. Ramanatha Iyer’s Law Lexicon (6th edition) as “a risky investment of money for the sake of and in expectation of unusually large profits”. A “speculator” is “one who practices speculation in trade or business”. Two elements emerge: (i) expectation of unusually high profits; and (ii) activity in the nature of business or trade. These elements accord with the ratio of Pioneer Urban, which described speculative investors as those seeking refund or profit without an intention to occupy.*

**X X X**

**18.4.5.** *Non-exhaustive indicators include:*

*(1) If the agreement substitutes possession with a buyback or refund option, or any other special arrangement, the allottee is likely a speculative investor.*

*(2) Insistence on refund with high interest, coupled with refusal to accept possession would indicate speculation.*



*(3) Purchase of multiple units, especially in double digits, shall invite greater scrutiny, though it is not conclusive. If the terms of the agreement provide for possession or refund in the event of failure to give possession alone, this factor may not be held against the allottee.*

*(4) Special rights, preferential treatment, or unusual privileges to the allottee would signal investment intent.*

*(5) Deviation from the RERA Model Agreement shall be a crucial indicator as to the nature of the transaction – the greater the departure, the greater the likelihood of speculation.*

*(6) Unrealistic interest rates and promises of 20 – 25% returns over a short duration are indicative of speculation.”*

**10.** Having made reference to Para 5.3 of the judgement of Hon’ble Supreme Court in ***Mansi Brar Fernandes vs. Shubha Sharma and Anr. in Civil Appeal No. 3826 of 2020***, Mr. Aditya argued that the residential real estate sector plays a systemic role in the Indian economy, as it is closely interlinked with banking, steel, cement, and allied industries and is among the largest employment generators. In his submissions, despite robust demand, the sector has been plagued by delays, defaults, and lack of accountability, leaving countless families without possession of homes despite having invested their life savings. He espoused that in the above backdrop; the Hon’ble Supreme Court has consistently reiterated that the IBC is not a recovery mechanism or a bargaining chip for individual disputes. Rather, it is a collective mechanism intended to revive viable projects and safeguard the fundamental right viz. ‘right to shelter’ of genuine homebuyers. Para 5.3 of the judgment of Hon’ble Supreme Court reads thus:-



*“5.3. The residential real estate sector plays a systemic role in the Indian economy. It is closely interlinked with banking, steel, cement, and allied industries, and is among the largest employment generators. Despite robust demand, the sector has been plagued by delays, defaults, and lack of accountability, leaving countless families without possession of homes despite having invested their life savings. In this backdrop, this Court has consistently reiterated that the IBC is not a recovery mechanism or a bargaining chip for individual disputes. Rather, it is a collective mechanism intended to revive viable projects and safeguard the fundamental right to shelter of genuine homebuyers.”*

**11.** We are unable to understand as to whether the above plea support the cause of homebuyers or the builders, as espoused by the Ld. Counsel. A reading of above para reflects the concern expressed by Hon’ble Supreme Court for homebuyers. Nevertheless, the plea raised by Mr. Aditya is that where merely because there is a little delay in handing over the possession of the units, physical possession of most of which was not to be given, the Applicants herein should not endeavor to delay the project for their individual gains. Having made reference to para 15.4 of the judgment, Mr. Aditya submitted that the strict adherence to IBC timelines and settled precedent is imperative to realize two complementary objectives viz. (i) ensuring revival and completion of stalled projects for the benefits of genuine homebuyers; and (ii) curbing speculative activity which has functioned as a “slow poison” for the residential real estate sector and, by extension, the Indian middle class. Para 15.4 of the judgment reads thus:

*“15.4. Strict adherence to IBC timelines and settled precedent is imperative to realise two complementary objectives:*



*(i)ensuring revival and completion of stalled projects for the benefit of genuine homebuyers; and*

*(ii)curbing speculative activity which has functioned as a “slow poison” for the residential real estate sector and, by extension, the Indian middle class.”*

**12.** It is the case of Mr. Aditya that the Applicant hereinbefore us are indulging in speculative activities and are those who involved in activities relating to the project. Having made reference to para 18.1 of the judgment, he tried to espouse that the perusal of the paragraph and Builder Buyer Agreement would reveal that majority of the Applicants viz. 94 in number are those who are not entitled to physical possession and should be treated as speculative investor, not meeting the requirement of genuine Homebuyers. Having referred to BBA dated 11.12.2013 placed on record as Annexure P-5 (collectively) to the application, Mr. Aditya submitted that a perusal of Clause 1.1.17 & 1.1.28 of the BBA provides that the units were classified in two categories viz. lockable and unlockable. The clauses 1.1.17 & 1.1.28 reads thus:-

1.1.17 "Lockable Unit" means a unit which is enclosed between walls made from such material as may be considered appropriate by developer with door(s) for ingress/egress.

*(Signature)*

*Aditya*

**X X X**

1.1.28 "Unlockable Unit" means a unit which is undivided, which cannot be used separately and which forms part of a larger unit.

**13.** He espoused that a perusal of Article 11 of the BBA would establish that the Allottees of unlockable unit were not to get physical possession of the unit. The Article 11.1 of the BBA reads thus:-

**11.1 Allottee of unlockable unit will not get physical possession of the unit.**



**14.** Per contra, the Ld. Counsel for the Applicants (Allottees) made reference to Paras 18.1, 18.4 & 18.4.5 of the judgment of Hon'ble Supreme Court (supra) to espouse that only in such cases where the units are allotted with a buy back or refund option or insistence on refund with high interest or multiple units especially in double digits are purchased by single Allottees, one could say that the Allottees are speculative investors. He further submitted that even unrealistic interests and promises of 20% to 25% return over a short duration are also indicative of the speculative investment.

**15.** Ld. Counsel for the Allottees also made reference to Schedule 'A' to Builder Buyer Agreement (ibid) and also Clause 5.3 of the BBA to show that the developer is liable to give possession of the unit in raw/bare shell condition. We already reproduced the schedule hereinabove. The clause 5.3 reads thus:

**5.3 Developer will give possession of the unit in raw/bare shell condition.**

**16.** As can be seen from para 18.1 of the judgment of Hon'ble Supreme Court possession/dwelling unit remains the sine qua non of a genuine homebuyer's intent. The Hon'ble Supreme Court has not drawn any distinction between possession and physical possession. The counsels for the applicant could indicate that the BBA contains the provision regarding handing over the possession. We have already taken note of the relevant excerpt of the BBA and the schedule thereto. It has already been noted hereinabove that the requirement of the provisions of Section 7(3) & (5) are satisfied in the present matter. **In the totality of the facts and circumstances, we are left with no option but to admit the petition. Ordered accordingly.**



17. However, in **Flat Buyers Association Winter Hills – 77, Gurgaon vs. Umang Realtech Pvt. Ltd.** (Company Appeal (AT) (Insolvency) No. 926 of 2019) Hon'ble NCLAT ruled that even during pendency of CIRP, the reverse CIRP can be ordered and the Corporate Debtor can bring investors to complete the project. Such option is always open to the Corporate Debtor and the Investor. The relevant excerpt of the judgment passed by Hon'ble Supreme Court reads thus:-

*“25. In the light of aforesaid discussion, as we find it is very difficult to follow the process as in normal course is followed in a Corporate Insolvency Resolution Process, we are of the view, that a ‘Reverse Corporate Insolvency Resolution Process’ can be followed in the cases of real estate infrastructure companies in the interest of the allottees and survival of the real estate companies and to ensure completion of projects which provides employment to large number of unorganized workmen.”*

18. Also, in **Satish Chander Verma vs. Grand Reality Pvt. Ltd. and Ors.**, (Company Appeal (AT) (Ins.) No. 289 of 2023), Hon'ble NCLAT closed the CIRP, after directing reverse CIRP. Hon'ble Supreme Court could also endorse the view taken by Hon'ble NCLAT. The relevant paras of order dated 15.07.2025 passed in Satish Chander Verma (supra) reads thus:-

*“2. Vide order dated 26.09.2023, this Tribunal while allowing IA No. 1832 of 2023 (hereinafter referred to as “Intervention Application”) sought to resolve the issue and permitted Respondent No. 44 to proceed with the construction of the project in terms of the Development Agreement dated 18.11.2011 thus initiating a “Court monitored CIRP”/ “reverse CIRP” so that possessions could be handed over to the flat owners. The relevant part of the said order dated 26.09.2023 is reproduced herein below:*



“..... During the pendency of the present application an Interlocutory application vide I.A. No. 1832 of 2023 has been filed as intervention application on behalf of PAX Homes LLP claiming to be developer of the project in question. Normally, in such appeal we were not interested to entertain such intervention application, however, considering the interest of Homebuyer, we are entertaining the Interlocutory application i.e. Intervention application and intervenor is allowed to be impleaded as party Respondent in the present appeal. Accordingly, intervention application vide I.A. No. 1832 of 2023, stands disposed of..... Since in the present proceeding we are taking steps to finally resolve the issue, in the meanwhile, it is necessary to direct for maintaining status quo as available on the date and permit the developer to proceed with construction so that possession of flats may be handed to flat owners in terms of this order. ....

.....”

4. In the meanwhile, the Appellant also approached the Hon’ble Supreme Court wherein the corporate debtor, the developer and the home buyers appeared and requested that the matter be closed by this Tribunal. The relevant part of the order dated 30.05.2025 passed by the Hon’ble Supreme Court in Civil Appeal No. 7097 of 2025 reads as hereunder:

“..... 2. The corporate debtor, the developer and the home buyers are all on the same page and are awaiting resolution of the matter for the reason that the NCLAT is not concluding the proceedings. According to the learned counsel appearing for the parties, the delay is being caused by the Resolution Professional (hereafter, referred to as ‘RP’). It is further stated that the matter has already attained finality with the construction being complete but for



the conduct of the RP, the appeal is kept pending before the NCLAT. 3. We have been informed that the next date fixed for hearing is 7th July, 2025. Considering the aforesaid submissions, we request the NCLAT to ensure that the disposal of the appeal is not delayed and the same is decided at the earliest

.....”

5. Thereafter, the RP vide an updated affidavit dated 10.07.2025 stated that there are pending claims of the claimants. The pending claims as per the Affidavit of the RP is hereunder:

<b>S. No.</b>	<b>Type of Creditor</b>	<b>Remarks</b>
1.	Financial Creditor Ayush Jain (P2-502)	Possession not offered to the claimant by the CD.
2.	Financial Creditor Mukesh Kr. Agarwal (P2-301)	Amount pending on account of agreed interest and compensation. Possession received.
3.	Financial Creditor Rohita Dharanendra Hesi (P3-1204)	Claimant has not confirmed receiving the possession or satisfaction of claim.
4.	Mrs. Usha Malik (P1-903)	Claimant has not confirmed receiving the possession or satisfaction of claim.
5.	Income Tax Department	Claim not satisfied.

6. We have been informed the claims from S. No. 1 to 4 above have been satisfied and the details of the same are hereunder:

**A. Ayush Jain:** The said allottee has entered in to a MoU dated 21.02.2025 with the Developer duly being monitored by MAHARERA enabling/ allowing the Developer to sell his respective unit and disburse the sale consideration (of his share) from such sale proceeds. Copy of the MoU dated 21.02.2025 (@ Pg No. 75-81 of Affidavit dated 03.07.2025 of the Appellant) has



also been filed before Ld. MAHARERA and forms part of the Affidavit dated 03.07.2025 before this Tribunal.

**B. Mukesh Kr. Agarwal:** The said allottee has sold his unit bearing P2-301 to one Dr. Manisha Nikam and thus has no rights towards the unit. Copy of the possession letter dated 14.08.2024 is enclosed. Dr. Manisha Nikam has also sent an email to the RP and the Appellant on 11.07.2025 after the matter was heard in order to clarify the said facts. Copy of the email is also filed.

**C. Rohita Dharanendra Hesi:** The said allottee has already taken the possession of the unit bearing P3-1204 and the same was already confirmed by the RP vide letter email dated 29.05.2025 Copy of the possession letter also forms part of the Application bearing I.A. 2634 of 2025 filed by Appellant. Rohita Dharanendra Hesi has once again issued an email on 11.07.2025 which has also been replied to by the RP. Copy of the email is also filed.

**D. Usha Malik:** The said allottee has already taken the possession of her unit bearing P1-903. The same was also intimated to the RP on 16.06.2025 (possession letter dated 28.02.2025 and copy of the email dated 16.06.2025 is filed).

7. Qua the sole claim of Income Tax Department pertaining to the assessment year 2015-16, it is submitted this Tribunal vide its order dated 07.07.2025 had directed the Income Tax to appear in order to confirm the status of the disputed claim and stay of demand. The Appellant also filed an Affidavit dated 08.07.2025 placing on record the stay of demand and deposit made by the Appellant for such stay. This fact was also confirmed by the Counsel for the Income Tax Mr. Akshat Singh, Jr. Standing Counsel who appeared in the matter on 11.07.2025 and stated that they do not have any objection if the CIRP against the Corporate Debtor is closed as long as the dispute between



*the Corporate Debtor and the Income Tax is not extinguished and the same would be dealt with in accordance to the law after the closure of CIRP. It is reiterated by the appellant before us the closure of CIRP will not extinguish the claims of Income Tax and the same shall be treated as per final adjudication in legal proceedings in accordance with law.*

8. *In Sachin Malde v. Hemant Nanji Chheda & Anr., Company Appeal (AT) (Ins.) No. 123 of 2024 this Tribunal held:*

*“5. Learned Counsel for the Appellant submits that in view of the fact that after the publication made by the RP no claims have come therefore, there are no other creditors, hence, there is no necessary to ask the Financial Creditor to file a Section 12A Application which shall only be an empty formality, since there are no other creditors and Financial Creditor has already settled. We are of the view, that in the facts of the case as noticed above, there is no necessity to ask the Financial Creditor to file 12A Application. The judgment of Hon’ble Supreme Court in GLAS Trust Company LLC Vs. BYJU Raveendran & Ors. in Civil Appeal No. 9986 of 2024 **also lays down that in appropriate cases inherent power can be exercised to close the proceedings.***

*6. In facts of the present case, we are of the view that in view of the settlement between the parties brought on record the proceedings of insolvency against the Corporate Debtor need to be closed. The impugned order is set aside. The amount deposited in the registry under the orders of this Court shall be paid to the Respondent No.1.”*

9. *Further in the case of Gaurav Bhati (Suspended Director of Bird Consultancy Services Pvt. Ltd.) v. Smriti Bhatia & Ors., Company Appeal (AT) (Ins.) No. 881 of 2025, this Tribunal held:*

*“7. Keeping in view the aforesaid facts and circumstances coupled with the law laid down by this Court in the case of Sachin Malde (Supra), we are of the considered opinion that in the absence of any claim made by the creditors other than*



*the one who have filed the application under Section 7, despite the fact that due publication was made by the IRP, this court can exercise jurisdiction for settling the dispute between the parties, before this court, in spite of asking the financial creditor to file an application under Section 12A of the Code in terms of the decision of the Hon'ble Supreme Court in the case of Glass Trust Company LLC (Supra).”*

*10. Thus, considering the facts and also upon going through the affidavit filed by the Resolution Professional, the explanations given and in view of the submissions of the Learned Sr. Counsel appearing on behalf of the appellant the appellant has no objection in case any claimant takes appropriate remedy for recovery of any alleged interest or compensation and would contest the same as per law, if need arose. Moreso, the Learned Counsel for the Resolution Professional submits yesterday he has received an email from Mr. Mukesh Kumar Aggarwal and the said claimant has no objection in case the CIRP is closed. The Learned Sr. Counsel for the appellant also added Mr. Mukesh Kumar Aggarwal has already sold the apartment on 16.08.2024. The documents in this regard be filed within a week from today.*

*11. In the circumstances, there is nothing left in the matter as the construction is complete in pursuance of our order dated 26.09.2023 and possession being handed over to all the claimant homebuyers and there is no claimant left, hence, we see no impediment in closing of the CIRP and hence we direct the CIRP of the Corporate Debtor stands closed. Accordingly, the Resolution Professional is discharged. The impugned order is thus set aside. Thus, the appeal is disposed of. All pending application(s), if any, are closed.”*

**19.** In the present case, an investor has shown interest to infuse the funds to complete the project. The appropriate stage for him to make such proposal is after admission of the application and not before that. In a way, after admission



of the petition, the investor comes forward to revive the project/CD. One may wonder that when we have rejected intervention application, how a view can be taken that the intervenor may infuse funds to revive the CD. The concern may be addressed with the clarification that while Hon'ble NCLAT has consistently viewed that the intervention is not permissible at the stage of consideration of application for admission it has also taken the view that after admission of CD to CIRP intervention is permissible. In **Gagan Tondon & Ors. vs. IL & FS Financial Services Ltd. & Ors. in Company Appeal (AT) (Ins.) No. 500 of 2025 & I.A. No. 1911, 2261, 2264 of 2025**, Hon'ble NCLAT permitted intervention after admission of CD to CIRP. We heard this matter for almost 1:30 hours and accommodated all the counsels who appeared before, after and during dictation of the order. We are really appalled and dismayed to note that the Corporate Debtor changed three counsels who appeared virtually during the course of dictation of the order. It is again and again argued that four petitions are pending before a different bench so this Bench should not hear the present petition. We have already noted hereinabove that we get only 14 days' time to verify the default and if we are unable to complete the exercise within 14 days, we have to record the reasons. In the present case, notice was issued by this Tribunal on 18.12.2025 and today it is 23.04.2026. At the cost of repetition, it is noted that in the event of admission of a petition in respect of one Corporate Debtor, all other creditors can file their claim before the IRP appointed qua that creditor. There can be no reason, purpose and object to endeavor to seek clubbing of the petitions filed by different creditors against the same CD. At this stage, Ld.



Counsel for the CD submitted that the CIRP should be confined to the project in which the Petitioners are allotted lockable/unlockable units. We find sufficient merit in his such plea. In **Gagan Tondon & Ors. vs. IL & FS Financial Services Ltd. & Ors.** in Company Appeal (AT) (Ins.) No. 500 of 2025 & I.A. No. 1911, 2261, 2264 of 2025 (*ibid*) Hon'ble NCLAT approved the resolution of project wise insolvency in real estate matters. Paras 71, 81 to 88, 91 and 100 of the judgment reads thus:-

*"71. The Appeal(s) were filed challenging the order dated 16.11.2022 by the allottees of different projects of the CD, which projects were situated in different Cities. The allottees who had initiated the CIRP against the CD, relating to Fernhill Project, also had agreed that CIRP initiated vide order dated 16.11.2022 be confined to only Fernhill Project. The order of the Adjudicating Authority was modified by this Tribunal by directing that the same be confined to only one project, i.e. Fernhill. In Paragraph-3, following was directed:*

*"3. All these appeals by the allottees, who have different projects of the Corporate Debtor and by initiation of CIRP they have been aggrieved. The Projects of the Appellants are situated at different cities and the 'Fernhill' project is situated at Manesar, Haryana. Learned Counsel for the Appellants as well as the learned Counsel for the allottees, who are Applicant, are agreeable that the CIRP should be confined only to 'Fernhill Project'. There being no dispute between the parties that CIRP should be confined to Fernhill Project, we modify the impugned order dated 16.11.2022 only to the extent that the CIRP admitted against the Corporate Debtor shall confine only to one project i.e. "The Fernhill" situated at "Revenue Estate of Village Mewka, TehsilManesar, Sector-91, District- Gurgaon, Haryana"*

**X X X**



81. What Hon'ble Supreme Court has held [in the above case](#) is that resolution of real estate insolvency should, as a rule, proceed on a project specific basis rather than the entire CD, unless circumstances justify otherwise. This would protect solvent projects and genuine homebuyers from collateral prejudice.

82. We also need to notice certain provisions of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), which deals with the process for resolution of a CD, with respect to resolution of a real estate Company Appeal (AT) (Ins.) Nos.500 & 502 of 2025 68 company, which has several real estate projects, few amendments have been made in the CIRP Regulations, which need to be noticed. The CIRP Regulations as originally framed did not envisage any real estate project resolution. In Regulation 36A for the first time by amendment in Regulation 36A(1), a clarification has been added with effect from 15.02.2024. Regulation 36A, sub-regulation (1) with clarification provides as follows:

"36A(1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the 123[Schedule-I] at the earliest, 124[not later than sixtieth day]from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans. [Clarification: The resolution professional after the approval of the committee may invite a resolution plan for each real estate project or group of projects of the corporate debtor.]

83. The above provision is an enabling provision that empowers the RP after approval of CoC, to invite Resolution Plans for each real estate project or projects of the CD. The above Regulation thus, clearly contemplates the steps to be undertaken by the RP when there is more than one real estate project of the CD. Certain further amendments have been made in the Regulation with effect from 03.02.2025, which



also needs to be noticed. Regulation 4E has been added with effect from 03.02.2025, which is as follows:

"4E. Handing over the possession. After obtaining the approval of the committee with not less than sixty-six percent of total votes, the resolution professional shall hand over the possession of the plot, apartment, or building or any instruments agreed to be transferred under the real estate project and facilitate registration, where the allottee has requested for the same and has performed his part under the agreement."

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84. In [Regulation 18](#), sub-regulation (4) has been inserted vide Notification dated 03.02.2025, which empowers the CoC to invite the competent authority, i.e. [Real Estate \(Regulation and Development\) Act, 2016](#). Sub-regulation (4) of [Regulation 18](#) is as follows:

"18(4) Where the corporate debtor has any real estate project, the committee may direct the resolution professional to invite the 'competent authority' as defined in clause (p) of [section 2](#) of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) related to such project to attend such meeting(s) of the committee, as the committee may decide, without voting rights, for providing inputs on matters associated with the development of such project."

85. The above Regulations, even after amendments as noted above, throw very little light over the complexities and difficulties, which arise in the resolution of the real estate project, undertaken by a real estate Company. There have been several precedences of this Tribunal, where this Tribunal had occasion to consider the resolution of a real estate project. The judgment of this Tribunal in Company Appeal (AT) (Ins.) [No. 926 of 2019 - Flat Buyers Association Winter Hills - 77, Gurgaon vs. Umang Realtech Pvt. Ltd.](#) through IRP & Ors. is one of such cases, where this Tribunal has noticed the problems in following



certain process in the cases of infrastructure companies (for allottees). In Paragraphs 9 and 10 of the judgment, following observations have been made:

"9. In terms of the 'I&B Code' and the decisions of the Hon'ble Supreme Court, the 'Resolution Plan' must maximise the assets of the Corporate Debtor and balance the stakeholders (secured and unsecured creditors- Financial Creditors/ Operational Creditors).

10. The Infrastructure which is constructed for the allottees by Corporate Debtor (Infrastructure Company) is an asset of the Corporate Debtor. The assets of the Corporate Debtor as per the Code cannot be distributed, which are secured for 'Secured Company Appeal (AT) (Ins.) Nos.500 & 502 of 2025 70 Creditors'. On the contrary, allottees (Homebuyers) who are 'Unsecured Creditors', the assets of the Corporate Debtor which is the Infrastructure, is to be transferred in their favour ('Unsecured Creditors') and not to the 'Secured Creditors' such as Financial Institutions/ Banks/ NBFCs."

86. The Hon'ble Supreme Court [in the above case](#) has also noticed the concept of "reverse corporate insolvency resolution process". This Tribunal in the above judgment, which was delivered on 04.02.2020 had observed that in the CIRP against a real estate, if allottees (Financial Creditors) or Financial Institutions are of one project initiated CIRP against the CD, it be confined to the particular project and it cannot affect other projects of the real estate company in other places. In Paragraph 21 of the judgment, following was laid down:

"21. In Corporate Insolvency Resolution Process against a real estate, if allottees (Financial Creditors) or Financial Institutions/Banks (Other Financial Creditors) or Operational Creditors of one project initiated Corporate Insolvency Resolution Process against the Corporate Debtor (real estate company), it is confined to the particular project, it cannot affect any other project(s) of the same real estate company (Corporate Debtor) in other places where separate plan(s) are approved by different authorities, land and its



*owner may be different and mainly the allottees (financial creditors), financial institutions (financial creditors, operational creditors are different for such separate project. Therefore, all the asset of the company (Corporate Debtor) are not to be maximized. The asset of the company (Corporate Debtor - real estate) of that particular project is to be maximized for balancing the creditors such as allottees, financial institutions and operational creditors of that particular project. Corporate Insolvency Resolution Process should be project basis, as per approved plan by the Competent Authority. Any other allottees (financial creditors) or financial institutions/ banks (other financial creditors) or operational creditors of other project cannot file a claim before the Interim Resolution Professional of other project and such claim cannot be entertained.*

*So, we hold that Corporate Insolvency Resolution Process against a real estate company (Corporate Debtor) is limited to a project as per approved plan by the Competent Authority and not other projects which are separate at other places for which separate plans approved. For example - in this case the Winter Hill*

*- 77 Gurgaon Project of the 'Corporate Debtor' has been place of Company Appeal (AT) (Ins.) Nos.500 & 502 of 2025 71 Corporate Insolvency Resolution Process. If the same real estate company (Corporate Debtor herein) has any other project in another town such as Delhi or Kerala or Mumbai, they cannot be clubbed together nor the asset of the Corporate Debtor (Company) for such other projects can be maximised."*

*87. This Tribunal [in the above case](#) has held that "if the same real estate company (Corporate Debtor herein) has any other project in another town such as Delhi or Kerala or Mumbai, they cannot be clubbed together nor the asset of the Corporate Debtor (Company) for such other projects can be maximized". The above judgment of this Tribunal, thus, has clearly observed that when the CIRP by allottees or Financial Institutions relates to one project, it should be confined to*



that project. The above proposition, thus, is fully supported by precedence of this Tribunal, hence, we have no hesitation to hold that when CIRP initiated by allottees or Financial Institutions, under [Section 7](#) relates to one project, the CIRP has to be confined to the said project and cannot take into its fold, the other real estate projects, situated in other cities or other States.

88. We have noticed above that two Loan Facilities extended by the IL&FS to the CD. The purpose of the Loan Facilities as noted above provided that it would be utilized for any of the specific purpose as mentioned therein from (a) to (d). Clause (a) provided for project development expenses in APIL's various under construction real estate projects and Clause (c) provides for expanding loan & advances to subsidiaries/ associates including loan and advances to CD towards implementation of trunk infrastructure at Lucknow township and general corporate purpose. The Facility, thus specifically did not limit the Company Appeal (AT) (Ins.) Nos.500 & 502 of 2025 72 utilization for any one project. When source of repayment as provided in the Sanctioned Letter and the Loan Agreement confine to specific assets mortgaged and charge, we are of the view that in the CIRP, only those assets/ projects, which had charge, had to be resolved. It is the CD's case that majority of funds received from IL&FS were utilized for project Hi-Tech Township project at Lucknow. Be that as it may, when the securities and receivables are specified in the Loan Agreement, we are of the view that the CIRP has to be confined to only those projects, which form part of securities/ receivables and extending the CIRP to projects, which are not contemplated or referred to in the Loan Agreements, is uncalled for. The CD and IL&Fs are well aware about all the Hi-Tech Township projects and PMDO Facilities, which were undertaken. We have noticed Clause 21 of the terms and conditions of Sanctioned Letter dated 16.02.2016, which was the clause dealing with security. Security was clearly provided for



*Lucknow Plots; hypothecated receivables of Lucknow Plots, hypothecated identified receivables and first exclusive mortgage built up properties at Lucknow, Ajmer, Jodhpur and Jaipur. For ready reference, we may refer to Clause 21 of Sanctioned Letter dated 16.02.2016, which is as follows:*

*"21. Security : The Facility shall be secured by the following:*

*(a) (1) First exclusive mortgage of fully developed Plots (ready to construct plots by the prospective buyers) situated at Mother city, Lucknow (the "Lucknow Plots") Valuation/ Title Investigation to IFIN satisfaction by IFIN appointed Valuer/s & Legal Counsel. Details/ Title Deeds to be provided immediately for expeditious Company Appeal (AT) (Ins.) Nos.500 & 502 of 2025 73 processing (2) First exclusive hypothecation of receivables from the Lucknow Plots ("Hypothecated Receivables of Lucknow Plots"). Irrevocable POA from Borrower for the Hypothecated Receivables of the Lucknow Plots*

*(b) First exclusive hypothecation of Hypothecated Identified Receivables Irrevocable POA from Borrower for the Hypothecated Identified Receivables*

*(c) (1) First exclusive mortgage built up properties (ready to move in status) (located at Lucknow/ Jaipur/ Jodhpur/ Ajmer) ("Built Up Properties") (2) First exclusive hypothecation of receivables from Built Up Properties ("Hypothecated Built Up Properties Receivables"). Irrevocable POA from Borrower for the Hypothecated Built Up Properties Receivables*

*(d) Corporate Guarantee of all land owning companies other than the Borrower, if any, providing immovable property as security*

*(e) Personal Guarantee of Mr. Sushil Ansal and Mr. Pranav Ansal*

*(f) Demand Promissory note in favour of the Lender. The Promissory note shall bear the common seal of the Borrower duly supported by a resolution of the Board of Directors of the Borrower*



*(g) ECS mandate for Principal & Interest (including PDC for one month interest and Principal)"*

**X X X**

91. We may at this juncture also notice another order of this Tribunal dated 10.06.2022 in Company Appeal (AT) (Ins.) No.406 of 2022 - Ram Kishor Arora Suspended Director of M/ s [Supertech Ltd. vs. Union Bank of India & Anr. In the above case](#), CIRP commenced against M/s Supertech Ltd., a real estate company by an order dated 25.03.2022. Company Appeal (AT) (Ins.) Nos.500 & 502 of 2025 76 Supertech has large number of real estate projects. In the Appeal filed by Promoters, this Tribunal vide order dated 10.06.2022 issued various directions regarding project wise insolvency resolution of the CD. A direction was issued to constitute a Committee with respect to only one project Eco Village II and with respect to other projects, direction was issued for project wise resolution. Challenging the order dated 10.06.2022 passed by this Tribunal, Civil Appeal No.1925 of 2023 was filed by Financial Institution namely - Indiabulls Asset Reconstruction Company Ltd. The Hon'ble Supreme Court [in the above case](#) examined the challenge and at that stage did not interfere with the directions to proceed with the project-wise resolution. Paragraphs 21 to 24 of the order of this Tribunal dated 10.06.2022 are as follows:

*"21. We are conscious of the fact that 'CIRP' has been initiated against the Corporate Debtor. 'CIRP' has commenced against all the projects of the Corporate Debtor. 'CIRP' encompasses all the assets of the Corporate Debtor including all Bank Accounts. The IRP has already been appointed and has taken steps by informing all concerned including Banks to add the name of IRP for operation of the Account. The Learned Counsel for the Appellant made submissions and also filed an I.A. No. 1468 of 2022 by which Resolution cum Settlement Proposal has been*



*submitted by the Management with an object to carry out the construction of all the projects.*

*22. As noted above, the consequence of 'CIRP' is that all assets of the Corporate Debtor come in the control and management of the IRP. All bank accounts are to be operated with the counter signature of the IRP. No amount from any account can be withdrawn without the counter signature and permission of the IRP. IRP under the IBC has responsibility to run the Corporate Debtor as a going concern. Further when Promoters are ready to extend all cooperation with all its staffs and employees to the IRP, we see no reason for not to direct the IRP to proceed with construction of all the projects under the overall supervision and control of the IRP. We by an Interim Order dated 12th April, 2022 directed not to constitute the 'CoC' which Interim Order is continuing as on date.*

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*23. In the facts of the present case and keeping in view the submissions raised by the Learned Counsel for the parties, we are of the view that in 'CIRP' Process, Project-Wise Resolution to be started as a test to find out the success of such Resolution. Keeping an eye regarding construction and completion of the projects, we at present, are of the view that Interim Order dated 12th April, 2022 staying the constitution of CoC be modified to the extent that CoC be constituted for the Eco Village II Project only with all Financial Creditors including Financial Creditors/Banks/Home Buyers. The Committee of Creditors of Eco Village II Project shall start process for Resolution of Eco Village II Project. The IRP shall separate the claims received with regard to the Eco Village II Project and prepare an 'Information Memorandum' accordingly and proceed for meeting of the CoC as per the Code. It is further directed that even for Eco Village II Project, the IRP shall carry the Project and continue the project as ongoing project by taking all assistance from the ex-management, employees, workmen etc. We however make it clear that other projects apart from the Eco Village II Project shall proceed as ongoing project basis under the overall*



supervision of the IRP. IRP in his report stated that with regard to the projects, there are separate accounts as per 'RERA' Guidelines. Detail account of all the inflow and outflow with regard to each project shall be separately maintained as per the 'RERA' Guidelines. 70% of the amount received with regard to the project shall be utilized for construction purpose only with regard to the disbursement of rest 30 % amount, we shall issue appropriate direction after receiving further Status Report and after hearing all concern subsequently.

24. The Promoters of the Corporate Debtor has submitted that they shall arrange for Interim Finance to support the ongoing construction of the different projects by arranging finances as submitted in their Settlement cum Resolution Plan. Annexure 3 to the I.A. No. 1468 of 2022, with an object to complete the projects and clear the outstanding of all Financial Institutions including the Financial Creditors on the basis of 100% ledger balance and also payment to the Operational Creditor. The pendency of this proceeding shall in no manner hinder the Appellant to approach the Financial Creditors for entering into Settlement with the Financial Creditors. With regard to the disbursement to the Financial Creditors, out of 30% of the amount, we shall issue necessary direction after receiving the status report and receiving the progress of the projects."

**X X X**

100. In view of the foregoing facts, we dispose of both the Appeal(s) in following manner:

(1) The order dated 25.02.2025 passed by National Company Law Tribunal, New Delhi Bench Court-IV admitting [Section 7](#) application is upheld, subject to following directions:

(a) The CIRP against the CD is confined to CD's projects at Lucknow Mother City and Mother City Extension at Lucknow, Golf Plots at Lucknow and the assets of the CD in the State of Rajasthan and built-up properties at Ajmer, Jodhpur and Jaipur



*in the State of Rajasthan (as detailed in Schedule-B of Settlement Agreement dated 03.03.2022 at Sl. No.5, 6 & 7).*

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*(b) The Adjudicating Authority to consider the mode and manner to proceed with project wise resolution of the CD as per initiation of CIRP against a real estate company to the extent as indicated above.*

*(c) Further steps in the CIRP of the CD shall be taken as per directions of the Adjudicating Authority indicated above. The Adjudicating Authority shall also consider with respect to resolution of the CD's project at Lucknow, as to whether as per MoU and Development Agreements entered between the CD and Lucknow Development Authority, the Lucknow Development Authority is to be directed to complete the projects of the CD.*

*(d) UP Awas Evam Vikas Parishad shall be entitled to pursue its application before the Adjudicating Authority for excluding the assets claimed by it, from the CIRP of the CD, which may be considered and decided in accordance with law.*

*(e) The date of commencement of the CIRP of the CD has to be treated as 25.02.2025 and further steps in the CIRP be taken as per the directions of the Adjudicating Authority to be made hereinafter.*

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*(f) The Lucknow Development Authority be made party to the CIRP process and it be given opportunity to file its affidavit.*

*(g) The Homebuyers and other Applicants, who have filed IAs in these Appeal(s) are at liberty to file Intervention Petitions before the Adjudicating Authority in C.P.(IB) 558(ND)/ 2024.*



*Parties shall bear their own costs.”*

**20.** Thus, we confine the CIRP order to be commenced in terms of the present order to the project in which the Applicants are allottees. In the wake of the aforementioned, moratorium provided under Section 14 of IBC, 2016 is declared qua the project in which the Applicants are allotted units and as a necessary consequence thereof the following prohibitions are imposed, which must be followed by all and sundry:-

- (a) The institution of suits or continuation of pending suits or proceedings against the Respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the Respondent any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Respondent.

**21.** As proposed by the Petitioner, Mr. Abhimanyu Mittal having Registration No. IBBI/IPA-001/IP-P01870/2019-2020/12893 & email [ca.mittalabhi@gmail.com](mailto:ca.mittalabhi@gmail.com) is appointed as IRP. It is further ordered that Mr. Abhimanyu Mittal will conduct reverse CIRP and he will give opportunity to investor/CD to complete the project within 6 months under his supervision. If



investor/promoters qua CD shows no inclination towards reverse CIRP within 30 days, the IRP will carry the process in due deference to the provisions of Section 13, 15, 17, 18, 20 and 21 of the Code.

**22.** The Petitioner is directed to deposit Rs. 2,00,000/- only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

**23.** A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Applicant/Financial Creditor, the Respondent/Corporate Debtor and the IRP mentioned above. In addition, a copy of this Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

**Sd/-  
(ATUL CHATURVEDI)  
MEMBER (T)**

**Sd/-  
(ASHOK KUMAR BHARDWAJ)  
MEMBER (J)**

*Upasana/ Vishal/ Ruchita*