

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (INS) No. 200 / 2026

In the matter of:

AYRA CONSORTIUM

(Prospective Resolution Applicant)

Through its Authorized Representative

Mr. Rohi R Katha

Authorized Signatory

116 A Rachana Sayantara Phase-1 Hazar Pahad,

Vayusena Nagar, Seminary Hills Nagpur,

Maharashtra – 440007

.... APPELLANT

V

TRUPRO INSOLVENCY SERVICES LLP,

Resolution Professional of

M/s. Amar Prakaash Developers Pvt. Ltd

No. 581, Third Floor (Top Floor),

Sector 27, Gurugram - 122001

....RESPONDENT

Present :

For Appellant : Mr. Bilal Ali, Advocate

For Respondents : Mr. Raghav Menon, Advocate

ORDER
(Hybrid Mode)

[ORAL JUDGMENT: Justice Sharad Kumar Sharma, Member (Judicial)]

15.06.2026:

The Appellant in the proceedings enjoys the status of being that of the Prospective Resolution Applicant in relation to the proceedings that have been

drawn as against the Corporate Debtor namely M/s. Amar Prakaash Developers Private Limited. The Appellant stands before this Appellate Tribunal alleging a glaring error in the impugned order of 27.02.2026, which was rendered in CP (IB)/73(CHE)/2022 along with a number of interlocutory applications filed therein. In this company appeal we would be concerned with the order rendered in IA (IBC)/1985(CHE)/2025 that has been preferred by the Appellant, which, by the impugned order, has been directed to be listed along with the application, i.e., IA (IBC)Plan/11(CHE)/2025. Hence, as a matter of fact, there happens to be no positive or a negative adjudication order, against the Appellant, as the application IA (IBC) 1985 (CHE) 2025 filed by him has been left open to be considered, at the stage of consideration of the plan submitted for consideration in the pending IA(IBC)Plan/11(CHE)/2025.

2. The impugned order in itself contains two segments, having different implications altogether. The first part of order, pertains to IA (IBC)Plan/11(CHE) 2025 where, on the basis of the certificate given by the RP stating that the plan did not comply with various provisions of I & B Code and IBBI (CIRP) Regulations, 2016, the plan was remitted back to the committee of creditors (CoC) for re-consideration and fresh decision.

3. The shortcomings in the plan as pointed out in the impugned order are listed below.

a. The plan provides for payment of unpaid CIRP costs only and not

for the entire CIRP costs in violation of Section 30(2)(a) of the Code, to be read with Regulation 34B and Schedule II of the CIRP Regulations.

- b. Violation of Regulation 36B(4A) of CIRP Regulations, to be read with the provisions of clause (6) of RFRP pertaining to the security deposits as the plan does not propose payment of performance security within seven days from the date of approval of CoC.
- c. non-furnishing of declaration by Resolution Applicant as required under section 30(2)(e) of the Code and Regulation 38(1B) of CIRP Regulations.
- d. non-provision of regulatory fee to be paid to IBBI contrary to Regulation 39(4) of CIRP Regulations.
- e. non-furnishing of details of PUFEE applications and views of CoC on the same.
- f. non-payment of performance-based incentive to the RP despite approval of CoC of the same in its 4th meeting.
- g. there is discrimination among secured financial creditors in terms of payment proposed to them without any reason recorded for the same.

4. The Ld. Tribunal after taking note of the shortcomings as above, took the

view that, the matter was required to be remitted to the CoC for reconsideration of the Resolution Plan and the following orders were passed: -

"The matter is remitted back to the CoC in terms of Regulation 39(2), to discuss about the fate of the PUFÉ Applications and their views in this regard especially when the Respondents in the said PUFÉ Application are the SRA in the Resolution Plan."

.....

The matter is remitted back to the CoC to render its discussion and deliberation on clause 5.3 of the Resolution Plan and the payment of performance-linked incentive structure to the Resolution Professional.

.....

The CoC has not recorded any reasons justifying such deviation in the commercial wisdom.

The Plan is remitted back to the CoC to discuss on this issue and place its reasoning justifying said differential treatment.

.....

We direct the RP to convene the CoC meeting within 10 days to discuss the resolution plan and thereafter an informed decision be taken."

5. Thus, on these aforesaid issues, the plan was remitted back to the CoC to discuss the issue afresh and place it with its reasoning, justifying the differential treatment and to resubmit the plan with its reasoning and the matter was directed to be posted on 23.03.2026. Further, so far as it related to the pending interlocutory applications, the said applications were directed to be listed along with the application IA(IBC)Plan/11(CHE)/2025 on 23.03.2026 for

consideration.

6. Therefore, it has to be inferred that as a matter of fact, till date there is no merit adjudication either on IA(IBC)/1985(CHE)/2025 or on IA(IBC)Plan/11(CHE)/2025, in which the Resolution Plan has been submitted for approval, as the same was deferred to be considered upon submission of the decision to be taken by the CoC on the Resolution Plan, as directed by the first part of the order.

7. In IA (IBC) 1985 (CHE) 2025, which has been preferred by the Appellant, the Appellant had prayed for the following reliefs: -

"That considering the factual position mentioned above it is humbly prayed that this Hon'ble Tribunal may be pleased to pass an order and/or directions:

- A. Allow the Applicant to intervene in the I.A. 11/2025 i.e. Resolution Plan approval Application.*
- B. To hold that the Resolution Plan of (Aadarsh Surana, suspended director) pending for approval before this Hon'ble Tribunal as approved by the CoC in its 33rd meeting held on 22.08.2025, to be in direct violation of section 30 (2) of the Code, as clearly admitted by the RP and therefore cannot be approved by this Hon'ble Tribunal under section 31 (1) of the Code.*
- C. To quash the whole exercise of approving a non-compliant resolution plan by the CoC, and putting for approval before this Hon'ble Tribunal, by the resolution professional as the same suffered from material irregularity, connivance and patent violation of the provisions of the code.*

D. To remand the resolution plan of back to CoC under Section 31 (2) of the code, along with direction to Resolution Professional, to put only code compliant resolution plan, already received, before the CoC for its approval, in compliance of the provisions of the code and its regulations.

E. To pass any other order or direction which the Hon'ble Tribunal may deem fit in the present matter and in the interest of justice."

8. It can be seen from the above that the interlocutory application thus preferred by the Appellant on 03.12.2025, prayed for rejection of the proposed resolution plan and for remand of the same back to CoC and for a direction to RP to submit the code-compliant resolution plan received by him, before the CoC for consideration and approval and for permitting the Appellant to intervene when IA (IBC)Plan/11(CHE) 2025 is taken up for consideration by Ld. NCLT.

9. At the stage when the Appellant is before this Appellate Tribunal against the impugned order, in fact there is no decision on merits on IA/(IBC)/1985(CHE)/2025, because the same has been directed to be considered upon submission of the report by the RP, upon discussion of the plan by the CoC. Thus, the decision on the application was yet to be considered when the plan was being presented for its consideration before the Ld. Adjudicating Authority for its approval, as directed in the first part of the order, to be placed on 23.03.2026.

10. Surprisingly and for the reasons best known to the Appellant, the

Appellant in the instant company appeal has prayed for the following reliefs: -

"AN APPEAL UNDER SECTION 61(1) OF INSOLVENCY AND BANKRUPTCY CODE, 2016 AGAINST THE ORDER DATED 27.02.2026, PASSED BY THE LD. NATIONAL COMPANY LAW TRIBUNAL, CHENNAI, BENCH-I IN INTERLOCUTORY APPLICATION NO. 1985/2025 IN COMPANY PETITION NO. CP (IB)/73(CHE) 2022, TITLED AS "K V CAPITAL VS AMAR PRAKAASH DEVELOPERS PRIVATE LIMITED"

11. If we see the relief clause in the instant Appeal, there is nothing in it to indicate that the Appellant had ever attempted to give a challenge to the first part of the order dated 27.02.2026, where the CoC was directed to reconsider the resolution plan and after completing its deliberation, to resubmit the same before the Ld. Adjudicating Authority for consideration.

12. In that eventuality when the first part of the impugned order directing reconsideration of the plan has not been challenged by the Appellant and when the ancillary reliefs sought by him in IA (IBC) 1985 (CHE) 2025 is subject to his being permitted to intervene which is yet to be decided, the said reliefs sought in the IA will have no independent existence at all till the Appellant is permitted to intervene in the proceedings, which will be when the reconsidered plan along with the decision / recommendation of the CoC is placed on record before Ld. NCLT in pursuance to the first part of the order dated 27.02.2026.

13. Hence, the cause of action for the Appellant is yet to be crystallized, which will be only upon resubmission of the plan by the CoC before the Ld.

Adjudicating Authority, which is yet to be considered and proceeded with and which is reserved to be considered on merits upon submission of the plan by the CoC in pursuance to the order of 27.02.2026.

14. The Ld. Counsel for the Appellant has attempted to address upon the necessity for being made as a party to the proceedings where the plan was being considered before the CoC. We are apprehensive to accept that argument for the reason being that, the Appellant happens to be a Resolution Applicant and as such he at this juncture when the plan was directed to be reconsidered by way of revision by the CoC, the Appellant may not become the necessary party who could have been considered at all by the CoC and hence no orders could have been passed at this stage by this Appellate Tribunal on IA (IBC) 1985 (CHE) 2025 which is under challenge.

15. All issues pertaining to the legally enforceable rights of the Appellant, whatsoever he might be having, are still open to be argued when the resolution plan after its reconsideration by the CoC is placed before the Ld. Adjudicating Authority to be considered on its merit, and that is why the impugned order has reserved the rights of the Appellant, that his intervention application would be considered when IA (IBC)Plan/11(CHE) 2025 is considered by the Ld. Adjudicating Authority, upon its re-submission by the CoC.

16. So far as of now, there is no immediate prejudice caused to the Appellant on the orders passed on IA (IBC) 1985 (CHE) 2025, as the application is yet to

be considered on merits by the Ld. Adjudicating Authority as observed in the impugned order, hence, the company appeal is premature, and the same is accordingly dismissed at this stage.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

SN/MS/AK