

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 641 of 2025

IN THE MATTER OF:

**Rakesh Kumar Gupta
Erstwhile Resolution Professional for Three
C Universal Developers Pvt. Ltd.**

...Appellants

Versus

IDBI Trusteeship Services Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr. Arun Kathpalia and Mr. Abhijeet Sinha, Sr. Advocates along with Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Mr. Akshit Awasthi, Mr. Aditya, Ms. Heena Kochar and Ms. Diksha, Advocates.

For Respondents : Shri Rachit Mittal, Advocate for R1.

O R D E R
(Hybrid Mode)

24.04.2025: This appeal has been filed against the order dated 07.04.2025 passed by the Adjudicating Authority in IA No. 1582 of 2025 filed by the Respondent no.1 herein (IDBI Trusteeship Services Limited). Appellant Resolution Professional has been replaced.

2. Shri Kathpalia, Ld. Sr. Counsel for the appellant submits that the IBBI has passed an order on 30.07.2024 suspending the registration of the appellant. Ld. Counsel for the appellant refer to paragraph 4.6 of the order which submits that it shall be open for the CoC to take a decision with regard to continue services of the Resolution Professional. It is appellant's case that CoC has not taken its decision to discontinue the appellant in existing assignment and the application was filed by the applicant who was not member of the CoC and on the said application without hearing the appellant

as well as CoC the order has been passed for replacement on the first hearing of the application. Counsel for the respondent submits that appellant was present and he was heard before passing the order.

3. We have considered the submissions and perused the order. The order dated 30.07.2024 passed by IBBI suspending the registration of the appellant in paragraph- 4.3 to 4.6 states as follows:

“4.3 In view of the foregoing, the DC in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the Inspection and Investigation Regulations and Regulation 11 of the IP Regulations hereby suspends the registration of Mr. Rakesh Kumar Gupta (Registration No. IBBI/IPA-001/IP-P00833/2017-2018/11418) for a period of one year.

4.4 This Order shall come into force after expiry of 30 days from the date of its issuance.

4.5 A copy of this order shall be forwarded to the Insolvency Professional Agency of Institute of Chartered Accountants of India where Mr. Rakesh Kumar Gupta is enrolled as a member.

4.6 A copy of this order shall be sent to the CoC/ Stakeholders Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Rakesh Kumar Gupta is providing his services, if any, and the respective CoC/SCC, as the case may be, shall decide about continuation of existing assignment of Mr. Rakesh Kumar Gupta.”

The above order clearly provide that IBBI sent copies to all CoC where appellant was working and for the purpose “*shall decide about continuation of existing assignments of Shri Rakesh Kumar Gupta*”. Present is not a case where CoC has filed an application for replacement of Mr. Gupta and it is submitted that CoC was not even made a party in the application which was filed by the Respondent no.1 bearing IA No. 1582 of 2025 and without

hearing the CoC the order has been passed. The applicant being not a member of the CoC we fail to see that on the said application without hearing the CoC how the order for replacement could have been passed. The counsel for the appellant submits the CoC has not taken its decision to discontinue the appellant from existing assignment. Submission needs scrutiny.

4. Ld. Counsel for both the parties agreed that the appeal itself may be finally decided at this stage, we having taken the view that CoC having not been party to the application and CoC have not yet taken any decision to discontinue the appellant, the order impugned cannot be sustained. We set aside the order dated 07.04.2025 and revive the IA- 1582 of 2025 for fresh consideration. The Applicant/ Respondent no.1 may implead the CoC and by filing an application Adjudicating Authority after issuance the notice to the CoC shall proceed to decide the appeal. It shall be open for the appellant to file its reply.

5. Appeal is disposed of accordingly.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

harleen/NN