

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

**Company Appeal (AT) (Ins.) No. 1168 of 2022**

**IN THE MATTER OF:**

**Gaurav Mittal** **....Appellant**  
**Promoter, Suspended Director & Shareholder**

**Vs.**

**CHD Developers Ltd. & Ors.** **....Respondents**

**Present:**

**For Appellant:** **Mr. Arun Kathpalia Sr. Advocate with Mr. C.S. Gupta, Mr. R.K. Mishra, Mr. Aditya Dhupan, Advocates**

**For Respondents:** **Mr. Abhishek Anand, Mr. Mohak Sharma and Mr. Nikhil Jain, Advocates for R-2.**  
**Mr. Anupam Lal Das, Sr. Advocate with Mr. S. Nikhilesh, Ms. Swasthi Verma, Mr. Nayan Dubey, Advocates for objectors**  
**Mr. Sandeep and Mr. Monish for Roots Developers Pvt. Ltd.**

**With**

**Company Appeal (AT) (Ins.) No. 1181 of 2022**

**IN THE MATTER OF:**

**Gaurav Mittal** **....Appellant**

**Vs.**

**CHD Developers Ltd. & Ors.** **....Respondents**

**Present:**

**For Appellant:** **Mr. Arun Kathpalia Sr. Advocate with Mr. C.S. Gupta, Mr. R.K. Mishra, Mr. Aditya Dhupan, Advocates**

**For Respondents:** **Mr. Sandeep and Mr. Monish for Roots Developers Pvt. Ltd.**

**ORDER**

**27.09.2022:** These two appeals have been filed against the same order dated 05.09.2022 passed by National Company Law Tribunal, New Delhi, Principal Bench by which Adjudicating Authority has admitted two Section 7 applications being CP (IB)-1775 (PB)/2018 & CP (IB)-1081 (PB)/2020 and has rejected the application filed by appellant under Section 54C for Pre-packaged Insolvency Resolution Process.

2. Sh. Arun Kathpalia Learned Senior Counsel appearing for the appellant submits that the Adjudicating Authority has not considered the application filed under 54C of IBC, 2016 on merits and rejected the same on the premise that in view of the pendency of two section 7 applications, application under 54C cannot be considered.

3. It is further submitted that in so far as Section 7 application CP (IB)-1775 (PB)/2018 is concerned the applicants in the said application has categorically made a statement before the Adjudicating Authority that the applicant supports the Pre-packaged Insolvency Resolution Process application.

4. Mr. Gaurav Mitra who appeared for the Applicant in CP (IB)-1775 (PB)/2018 submits that they had categorically stated that the application under 54C be proceeded but despite the said statement the Section 7 application has been admitted.

5. With regard to application CP (IB)-1081 (PB)/2020 it is submitted that said Section 7 application was with regard to only one project that is CHD (Ban). It is submitted that the said application being with regard to only one project and there was serious objection with regard to the said application, the adjudicating Authority had not gone into the merits.

6. It is submitted that interpretation of Section 11A was also involved in the proceedings and in view of the Section 11A sub clause (4) the pendency of section 7 applications were no impediment in consideration of application filed by the appellant.

7. Mr. Abhishek Anand, Learned Counsel for Respondent No. 2 in Company Appeal (AT) (Ins.) No. 1168 of 2022 submits that the Respondent No.2 has also supported the Pre-packaged Insolvency Resolution Process.

8. Mr. Anupam Lal Das Learned Senior Counsel has also opposed the admission of the appeals and submits that they are the 359 unit holders who had not made party to the appeal and they had vital stake but they had not been permitted to vote the applicants filed under Section 54C.

9. It is further submitted that the Root Developers Pvt. Ltd. assignee of the CHD (Ban) also have 232 units but they could not participate in the 54C proceedings. It is submitted that the objection were also filed before the Adjudicating Authority.

10. Those objectors who have not been made party in these appeals and were heard by the Adjudicating Authority are permitted to file their application for impleadment, within two weeks.

11. The issues raised in these appeals require considerations, interpretation of Section 54C, whether the application under Section 54C can be considered on merits in the facts of present case despite the pendency of the two section 7 applications also needs to gone into the respondents in the appeals are allowed two weeks' time to file reply. The appellant may file rejoinder within two weeks.

12. List on **1<sup>st</sup> November, 2022** at 2.00. P.M.

13. Pleadings be completed before the date fixed.

14. In the meantime, no further steps shall be taken in pursuance of the impugned order.

**[Justice Ashok Bhushan]**  
**Chairperson**

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

*sa/nn*