

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No.767 of 2025

13.10.2025

Present: JUSTICE N. SESHASAYEE, MEMBER (JUDICIAL)
MR. ARUN BAROKA, MEMBER (TECHNICAL)

Mehul Harish Gosar

...Appellant

Vs.

1. M/s. Athena Constructions Ltd.

...Respondent No.1

2. M/s. Parorch Developers LLP
through IRP

...Respondent No.2

For Appellant: Mr. Krishnendu Datta, Sr. Advocate with Mr. Apoorv Shukla, Mr. Prerak Sharma, Ms. Prabhleen A. Shukla and Mr. Ayush Acharjee, Advocates

For Respondent: Ms. Aakash Lodha, Mr. Aditya Sharan and Mr. Rohit Gupta, Advocates for R-1

(Arising out of Impugned Order dated 08.05.2025 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench-II) in C.P. (I.B) No.539/MB/2024)

JUDGEMENT

Per Justice N. Seshasayee, Member (Judicial)

1. This Appeal is preferred challenging the Order of the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench – II in CP

(IB) No.539/MB/2024) dated 08.05.2025 by which Order the Adjudicating Authority had admitted the respondent – Parorch Developers LLP to a CIRP proceeding. The core contention taken in this appeal is that the appellant was not given an opportunity of hearing by the Tribunal.

2. Shri Krishnendu Datta, the learned Senior Counsel for the appellant submitted that even on 14.02.2025, the appellant had informed the Adjudicating Authority that the issue is likely to be settled. Indeed on 19.03.2025, accommodation was sought for filing the Reply. The learned Counsel added that as of now, the appellant had fully settled the Financial Creditor who initiated the CIRP. Placing reliance on ***Abhishek Singh, Suspended Director of Manpasand Beverages Ltd. v. Yoginkumar Ashokbhai Patel & another*** in [Company Appeal (AT) (Ins) No.1863 of 2024], the learned Counsel submitted that this Tribunal may set aside the Order and record settlement of the case and close the Order admitting the CIRP.
3. The learned Counsel for the respondents/Financial Creditors submitted that their dues have been settled.
4. There are two aspects to this Appeal:
 - (a) That whether CIRP may have to be closed as was done in CA 1863 of 2024;
 - (b) and if it is not so closed, what should be the Order on merit.
5. So far as the second question is concerned, on perusing the papers, we are of the opinion that the appellant in effect had not been heard on

merits and deserves an opportunity. Necessarily the Order of the Adjudicating Authority may have to be set aside. The next issue is should this Tribunal record the settlement between the parties and terminate the CIRP, since, with our decision to set aside the Order of the Adjudicating Authority, the case is relegated to a stage prior to the admission of the CD to CIRP.

6. Since, the CIRP has commenced, it is conceivable that the IRP might have received some claims, and hence those claims, if any, cannot be ignored. Then it will may well be a case where the it may have to be decided how to go about the matter in the light of the ratio in ***Glas Trust Company. LLC Vs Byju Raveendran & Others*** [(2025)3 SCC 625] Therefore, it would only be appropriate that the matter is remanded back to the Adjudicating Authority to deal with the issue of settlement as per law.
7. In conclusion, the Appeal is allowed and the Order of the Adjudicating Authority dated 08.05.2025 in C.P. (I.B) No.539/MB/2024 is set aside and the matter is remanded back to the Adjudicating Authority. The parties are free to move the Adjudicating Authority with their plea of settlement. No costs.

[Justice N. Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

rs/sk