NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1400 of 2026

IN THE MATTER OF:

Manindara Kumar Tiwari RP of Real Tech Constructions Pvt. Ltd. ...Appellant(s)

Versus

Neeraj Arora & Ors. ...Respondent(s)

Present:

For Appellant(s) : Mr. Gaurav Gupta, Ms. Rupal Gupta, Advocates.
For Respondent(s) : Appearance not marked.

O R D E R
(Hybrid Mode)

[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]

The instant appeal has been preferred by the Appellant, challenging the order dated 07.07.2026 passed by the Ld. Adjudicating Authority (NCLT, New Delhi Bench (Court-II)) in IA No. 2933 of 2026, filed in C.P.(IB) No. 726/(PB)/2024, whereby the Ld. Adjudicating Authority dismissed the application moved by the RP for exclusion of the time commencing from 01.05.2026 till the date of order on the application or disposal of the application bearing IA No. 2115 of 2026 (application moved for replacement of the Authorized Representative).

2. Brief facts, as reflected from the memorandum of appeal, are that the Corporate Insolvency Resolution Process (CIRP) was initiated against the CD vide order dated 28.04.2025 passed by the Ld. Adjudicating Authority in C.P.(IB) No. 726/(PB)/2024. Mr. Pankaj Khetan was appointed as the Interim

Resolution Professional (IRP). However, the said IRP was unwilling to continue as the IRP of the CD, and therefore the CoC, with 100% voting share, appointed Mr. Jugraj Singh Bedi as the RP of the CD.

3. It is contended in the appeal that, from the date of commencement of the CIRP until the date of filing of the IA before the Ld. Adjudicating Authority, no concrete steps were taken by the erstwhile RP, Mr. Jugraj Singh Bedi, towards successful resolution of the insolvency with regard to the CD. The process was limited only to public announcement and collation and verification of claims.

4. It is further stated that, due to the reasons mentioned above and for want of fulfilment of duties by the erstwhile RP, the CoC, again with 100% voting share, passed a resolution on 29.11.2025 replacing Mr. Jugraj Singh Bedi as the RP of the CD. Pursuant to this, the AR of the financial creditor filed an application bearing IA No. 52 of 2026 before the Adjudicating Authority on 05.01.2026, which was allowed on 08.01.2026. The said order was uploaded and communicated to the present RP, i.e., Mr. Manindra Kumar Tiwari, on 21.01.2026.

5. It is further stated in the appeal that the Appellant assumed charge as the RP on 08.01.2026 and is carrying out the CIRP in accordance with the provisions of the Code and the Regulations. He took a comprehensive review of the CIRP of the CD, verification of claims filed by the various stakeholders, and underlying documents, and also visited the project site to ascertain the factual status of the construction and progress on the ground. It was observed that the project structure is substantially complete.

6. It is further stated that, noticing the delay already occurred, the Ld. Adjudicating Authority, via order dated 17.03.2026, directed the existing Authorised Representative of the financial creditors in class not to create any obstruction and to represent the stand taken by the financial creditors in class in the CoC meetings.

7. It is further stated that the 180-day period envisaged under Section 12 of the Code expired on 25.10.2025. However, the erstwhile RP had already filed an application bearing IA No. 5761 of 2025 seeking exclusion and extension of the CIRP period. The said application is still pending adjudication before the Ld. Adjudicating Authority, wherein the Authorised Representative had objected to the maintainability of the same, it being filed without the consent of the CoC.

8. It is further stated that the Appellant immediately called a meeting of the CoC on 04.02.2026, wherein the issue of exclusion of the CIRP period was discussed, and 100% of the CoC agreed and authorised the Appellant to file an application before the Adjudicating Authority seeking exclusion of the CIRP period, thereby excluding a period of 220 days from 16.06.2025 till 21.01.2026 from the CIRP of the Corporate Debtor. The said application came up for hearing before the Adjudicating Authority on 19.02.2026. While declining the prayers of the Appellant for exclusion of the CIRP period, liberty was granted to seek extension of the CIRP period in the backdrop of the facts of the present case.

9. It is further stated that, after passing of the order dated 19.02.2026, the Appellant called a meeting of the CoC on 28.02.2026 and discussed the issue of extension of the CIRP. The CoC, again with 100% voting, authorised

the Appellant to file an application seeking extension of the CIRP period from 25.10.2025 till 22.01.2026, and further 90 days from 22.01.2026 till 22.04.2026. The Appellant therefore filed an application bearing IA No. 1345 of 2026 on 25.03.2026, seeking extension of time by 90 days, and the same was allowed by the Adjudicating Authority on 07.04.2026.

10. It is further stated that on 14.04.2026, the Appellant received formal requests from members of the financial creditors in class, representing more than 10% voting share in the CoC, seeking replacement of the existing Authorised Representative. In pursuance of the provisions of Regulation 16A(3A) of the CIRP Regulations, the grounds highlighted by the creditors in class pertained to the non-cooperation of the Authorised Representative in the conduct of the CIRP proceedings and obstruction in the voting process.

11. On 01.05.2026, the CoC approved the agenda for replacement of the Authorised Representative of the financial creditors in class and appointed Mr. Rajiv Khurana as the AR. The Appellant filed an application bearing IA No. 2115 of 2026, which is still pending adjudication. The Appellant also filed an application bearing IA No. 2933 of 2026, seeking exclusion of the period between 01.05.2026 and the adjudication of the application bearing IA No. 2115 of 2026. However, the same has been rejected by the Ld. Adjudicating Authority by passing the impugned order, on the ground that the Authorised Representative is a part of the CIRP and cannot be treated as outside the process.

12. Learned counsel for the Appellant vehemently submits that, by effect of the order dated 07.04.2026 passed by the Adjudicating Authority, the CIRP period stood extended up to 06.07.2026. However, in the meeting of the CoC

held on 06.07.2026, it was apprised by the Chairperson that, despite continuous and bona fide efforts undertaken by the Resolution Professional for expeditious completion of the CIRP, the resolution process has been materially impacted by circumstances beyond the control of the RP and the Committee of Creditors.

13. It is further submitted that in the aforesaid meeting, it was informed to the CoC that an application filed under Regulation 16A(3C) for appointment/replacement of the Authorised Representative, in pursuance of the decision already taken by the financial creditors in class with the requisite voting majority, is pending adjudication before the Adjudicating Authority, and substantial time has elapsed on account of pending judicial proceedings, during which the Resolution Professional has been unable to effectively carry forward certain critical stages of the CIRP wherein the participation of the Committee of Creditors is required. It was also apprised by the Chairperson that the Corporate Debtor's real estate project has substantially progressed, and no major construction activity remains to be undertaken. The remaining work primarily relates to the resolution of pending legal, procedural and stakeholder issues so as to facilitate successful completion of the insolvency resolution process. It was also noted that the CoC consists exclusively of home buyers as financial creditors in a class, whose predominant commercial objective is to achieve a successful resolution and protection of their interests through completion of the CIRP, rather than liquidation of the Corporate Debtor.

14. It is further submitted that in the meeting of the CoC held on 06.07.2026, it was categorically resolved that liquidation of the CD merely on

account of expiry of the CIRP timeline (during the pendency of applications before the Adjudicating Authority) would not be in the interest of maximising the value of the assets of the CD, nor would it serve the interest of the stakeholders, particularly the home buyers. Such a consequence would also defeat the legislative intent underlying the IBC, which places resolution, value maximisation and balancing of stakeholders' interests above liquidation.

15. It is further submitted that the impugned order is bad, as it has ignored the fact that the delay in the CIRP is being caused by the Authorised Representative. Thus, the deadlock could only be resolved once the application (IA No. 2115 of 2026), pending before the Ld. Adjudicating Authority for the change of the Authorised Representative of the creditors in class, is decided.

16. It is further submitted that the Ld. Adjudicating Authority has failed to appreciate that, on 01.05.2026, the CoC approved an agenda for replacement of the Authorised Representative of the financial creditors in class and for appointing Mr. Rajiv Khurana as the new AR. It has further ignored that the AR was obstructing the voting process during earlier CoC meetings and exhibiting conduct beyond the statutory role prescribed under Section 25A of the Code. Ld. Counsel for the Appellant has relied on the law laid down by this Appellate Tribunal in ***Kiran Martin Gulla, RP of Varadharaja Foods Private Limited, (2024) 244 Comp Cas 44,*** and ***Bhim Sain Goyal versus The American Swan Lifestyle Company Private Limited*****, Company Appeal (AT) (Insolvency) No. 1067 of 2020**, and by the Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel India Limited versus Satish Kumar Gupta, (2020) 8 SCC 531, and in Swiss Ribbons Private***

Limited v. Union of India, (2019) 4 SCC 17, and it is requested that the order passed by the Ld. Adjudicating Authority be set aside and the period between 01.05.2026 and the adjudication of the application bearing IA No. 2115 of 2026 be excluded from the computation of the CIRP period.

17. We have heard Ld. Counsel for the Appellant and have perused the record.

18. It appears to be an undisputed fact that, vide order dated 07.04.2026, the Ld. Adjudicating Authority allowed IA No. 1345 of 2026 for extension of time by 90 days. It is also an admitted fact that on 14.04.2026, the RP of the CD received a formal request from members of the financial creditors in class, collectively representing more than 10% of the voting share of the CoC, seeking replacement of the existing Authorised Representative. It is submitted that the said requests were made in exercise of the rights conferred under Regulation 16A(3A) of the CIRP Regulations, 2016.

19. We notice that Regulation 16A(3A) of the CIRP Regulations, 2016 provides that the financial creditors in the class representing not less than 10% voting share may seek replacement of the Authorised Representative with an insolvency professional of their choice by making a request to the Interim Resolution Professional or Resolution Professional, who shall circulate such request to the creditors in that class and announce a voting window open for at least 24 hours.

20. It is submitted that the CoC consists of the financial creditors in a class; therefore, the role of an Authorised Representative of the creditors in class assumes significance.

21. Sub-regulation (3C) of Regulation 16A of the CIRP Regulations, 2016 further provides that the Resolution Professional shall apply to the Adjudicating Authority for appointment of the Authorised Representative who receives the highest percentage of voting share of the financial creditors in that class.

22. It is vehemently submitted by Learned Counsel for the Appellant that, keeping in view the persistent non-cooperation of the erstwhile AR of financial creditors in class in the conduct of the CIRP proceedings and obstruction in the voting process during earlier CoC meetings, and also the conduct beyond the statutory role prescribed for an AR under Section 25A of the Code, this has resulted in a failure of a fair opportunity to the creditors in class. There is a complete loss of confidence of the creditors in class in the existing AR. It also appears to be an admitted situation that, on 01.05.2026, the CoC approved the agenda for replacement of the Authorised Representative of the financial creditors in class and approved Mr. Rajiv Khurana to be appointed as the Authorised Representative, allegedly because the Authorised Representative was persistently not cooperating in the CIRP proceedings. It is also an admitted situation that the Appellant/RP filed an application bearing IA No. 2115 of 2026, which is shown to be pending adjudication before the Ld. Adjudicating Authority.

23. Therefore, in our considered opinion, when the existing Authorised Representative of the creditors in class was non-cooperating with the resolution of the CD, and the CoC has taken a decision to change the Authorised Representative and has moved an application in this regard, the said application should have been decided immediately by the Adjudicating

Authority. In the absence of such disposal, we are of the considered view that the exclusion, as prayed by the Appellant, should have been granted.

24. We recall and emphasize that pushing the CD, whose business is real estate and in which the stake of hundreds of home buyers is involved, into liquidation would not be in the interest of any stakeholder. We also notice that it has been submitted by the Appellant before us that the construction of the project has almost completed. Thus, in our considered view, at this stage of the CIRP, when the construction of the project is almost complete and only some minor work is left, the liquidation of the CD would not be in the interest of any party.

25. We are of the considered view that, in the facts and circumstances of this case, the exclusion of time as requested by the Appellant should have been allowed by the Adjudicating Authority. Therefore, for the reasons given hereinbefore, the impugned order cannot be sustained and is liable to be set aside.

26. In result, the appeal is **Allowed**, and the impugned order passed by the Ld. Adjudicating Authority is set aside, and the period from 01.05.2026 till the adjudication of the application bearing IA No. 2115/ND/2026 is hereby excluded from being computed in the CIRP of the CD.

27. We request the Ld. Adjudicating Authority to dispose of IA No. 2115/ND/2026 filed by the Appellant at the earliest.

28. There is no order as to costs. Pending IAs, if any, are also disposed of.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

New Delhi
06.11.2026
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