

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 406 of 2022 &
I.A. No. 2387 of 2023

IN THE MATTER OF:

Ram Kishor Arora
Suspended Director of Supertech Ltd.

....Appellant

Vs.

Union Bank of India & Anr.

....Respondents

Present:

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Nikhil Mendiratta, Mr. Agastya Sen, Advocates in IA no. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Kiran Sharma, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Ashish Mukhi, Advocates for RP of Supertech.

Mr. Hitesh Goel, RP in person.

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Siddharth Bhatli, Ms. Apurva Praveen, Ms. Khyati Jain, Ms. Heena Kochar, Advocates for Appellant.

Mr. Pawan Shree Agrawal, Advocate in I.A. No. 3619 of 2023.

Mr. Sourav Roy, Mr. Vasudev Singh, Mr. Kaushal Sharma, Mr. Atharva Kotwal, Advocates in I.A. No. 3206 of 2022.

Mr. Shaurya Krishna, Mr. Amit Garg, Advocates for Applicant in IA No. 4713/2022.

Mr. Rohan Thowani, Mr. Pratul Pratap Singh, Advocates.

Mr. Rohit Oberoi, Ms. Jhanvi Vashisht, Ms. Mehak Bhalla, Advocates in IA No. 4574, 4775/2022.

Mr. Tanveer Oberoi, Advocate for Applicant in IA No. 4316 of 2023.

Mr. Sarthak Sharma, Advocate for Applicant in IA No. 2717 of 2022, 4213 of 2022.

Mr. M.L. Lahoty, Mr. Anchit Sripat, Advocates.

Mr. Sahil Sethi, Mr. Samridh Bindal, Mr. Vikash Kumar, Advocates for

Applicant in I.A. No. 4306 of 2023.

Mr. M.P Sahay, Ms. Awanitika, Mr. Sachin Kharb, Mr. Tushar Sharma, Advocates for Applicant.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Jivtresh Singh Sandhu, Advocates for R-1 (UBI).

Mr. Gopal Jain, Sr. Advocate with Mr. Ajay Bhargava, Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L&T finance in I.A. No. 3034 of 2022.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates for Applicant in I.A. No. 3281 of 2022.

ORDER
(HYBRID MODE)

12.02.2024: In pursuance to our order passed on 22.11.2023, 2nd Status Report has been filed by IRP dated 11.02.2024 and earlier Status Report was filed on 15.01.2024. In our order dated 22.11.2023, we issued following direction in paragraphs 4,7 & 9:-

“4. Learned Counsel for L&T Finance and Union Bank of India has agreed that 3-4 weeks time be allowed. Learned Counsel for the IRP has also in paragraph 5 of the Conclusion & Way Forward has opined that Varde Partners be granted and exclusivity period of 3-4 weeks to analyse and evaluate the transaction using the available due diligence report.

7. We, thus, are of the view that side by side granting time to the Varde Partners for evaluate and come with term sheet, if any, the IRP with the lender shall devise an alternate mechanism to carry out the Project of Non-Eco Village-II and on the next date in event no interim finance comes forward shall submit a alternative mechanism report for consideration of the Court so further steps

shall be taken forward. Enough time has been given for arranging a interim finance and we are not inclined to grant any further time for exploring a interim finance except the time which is being allowed under this order.

9. In view of the aforesaid, we allow four weeks time for Varde Parterns to analyse and come with a term sheet duly vetted by the IRP and the Steering Committee. As directed above the IRP with the Steering Committee and lenders may devise an alternative mechanism and that may also be filed on the next date of hearing.”

2. In the report which has been submitted by IRP dated 11.02.2024, it is submitted that certain progress has been made with regard to Varde Partners proposal for interim finance and Varde team has interacted with the IRP visited the sites and obtained necessary information and has done its due diligence sample of 707 customers were also shared by IRP. However, the report indicates that as on date no term sheet has been received, nor any concrete proposal for extending the interim finance. We had already in our order dated 22.11.2023 in paragraph 7 as extracted above has directed the IRP with the lenders to devise an alternative mechanism to carry out the project of Non-Eco Village-II.

3. Learned Counsel appearing for the Lenders submitted that sufficient time has been already granted for interim finance which has not yet come although several opportunities were granted. We, thus, are of the view that no further opportunity is required to be granted for interim finance. However, during consideration of these appeals if any final interim finance is received it

will be open for the IRP to apprise the Court with a term sheet and other materials.

4. Mr. Nakul Dewan, Learned Senior Counsel appearing for IRP submits that in view of directions which was issued in paragraph 7, the IRP has also collected certain data with regard to separate projects and has also discussed with the Steering Committee way forward.

5. The Corporate Debtor has several projects atleast 20 as noted in our earlier orders. Sufficient time has elapsed and no concrete proposal has come towards interim finance, Homebuyers are waiting for their units to be given to them. Homebuyers have also given substantial amount to the Corporate Debtor. Every project has different lenders, different charge holders.

6. Learned Counsel for the IRP submits that way forward can only be project wise resolution, for each project a concrete proposal has to be submitted in which after consultation with lenders and charge holders and the representative of the home buyers for that particular project. We, thus, are of the view that IRP be allowed to submit project wise resolution of the Corporate Debtor and for project wise resolution IRP shall prepare a draft proposal and send it to lenders and charge holders of the project and after receiving their inputs on the draft proposal may submit a proposal to the court for consideration. With regard to each project all concerned I.As shall also be considered while considering the projects. Let IRP finalize the project wise proposal and submit to the Court within a period of four weeks.

7. IRP has submitted that he shall give access to virtual data to the request which has been made by any stake holder after due verification.

8. Learned Counsel for the IRP referring to Status Report dated 15.01.2024 submitted that with regard to fire safety related issues the several safety work has been completed he has referred to Annexure A8 where Summary of safety-related work that has been planned, completed, and paid for till 05.01.2024 has been tabulated. It is submitted that amount of INR 8.6 crores has been spent towards the safety related work and details have been mentioned with regard to aforesaid safety related work in paragraph 4 of the report. In paragraph 4 (h) of the report following has been further stated:

“4. h) In light of what have been stated hereinabove, if this Hon’ble Appellate Tribunal may permit the IRP to appropriate another INR 2.5 crore from funds lying in designated 30% accounts of the projects, to complete the pending safety related work as per the budget and plan proposed in the application filed by the IRP and will also be a significant improvement in ensuring the safety of occupants.”

9. We permit the further release of another INR 2.5 crore from funds lying in designated 30% accounts as in term and conditions of earlier order dated 27.07.2023. IRP shall submit a detailed report regarding work done details of the payment and other details in the next report with regard to fire safety a separate report be submitted with regard to projects in question.

10. List this appeal on **22.03.2024** at **2.00 PM**.

11. Learned Counsel for the IRP has submitted that separate date be given with regard to Eco-Village-II Project in which CoC has already been constituted.

12. He has filed I.A. No. 303 of 2024 in Comp. App. (AT) (Ins.) No. 406 of 2022. Let I.A. No. 303 of 2024 be listed along with the appeal on **20.03.2024** at 2.00 PM.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

sa/nn