

**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. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Lashita Dhingra, Ms. Khyati Jain,  
Mr. Bhupender Premi, Advocates for Appellant.

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Sagar Thakkar,  
Advocates for Indiabulls.

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

Mr. Sahil Sethi, Mr. Samridh Bindal, Mr. Vikas Kumar, Advocates for Applicant  
in I.A. No. 4306 of 2023.

Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Kunal Arora, Ms. Raghwi Rawat,  
Advocates for R-1 (UBI).

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

Ms. Vibha Datta Makhija, Sr. Advocate, with Mr. Viplav Acharya, Ms. Kanika  
Sachdeva, Mr. Karan M. Advocates for Homebuyers.

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

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.

Mr. Rohit Oberoi, Mr. Raghav Sethi and Mr. Umang Bhatia, Advocates in I.A. No.  
4574 of 2022 & I.A. No. 4575 of 2022.

Mr. Soayib Qureshi, Mr. Harikesh Anirudhan, Advocates in IA No. 5452 of 2023.

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Nikhil Mehndiratta, Advocate in IA No. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate, Mr. Somdutta Bhattacharya, Ms. Kiran Sharma, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Soremil Jahurvar, Advocates for IRP.

Mr. Hitesh Goel, IRP in person.

Mr. Akshit Tyagi, Mr. Chandrakant Tyagi, Mr. Naushad Ahmed Khan, Advocates for applicants in IA No. 624 of 2023.

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

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

**ORDER**  
**(HYBRID MODE)**

**22.11.2023:** We have heard Mr. Nakul Dewan, Learned Sr. Counsel appearing for the IRP and other Learned Counsels appearing for the appellant as well as Learned Counsel for the Financial Creditors and Homebuyers.

2. In pursuance of our order dated 19.10.2023 report has been submitted by Resolution Professional dated 21.09.2023 under the heading 'Conclusion & Way Forward' the following has been stated:

*“IV. Conclusion & Way Forward*

*(1) The cashflow of the corporate debtor is declining and thus, it is imperative that fresh funds are infused in order to complete the pending construction work in the Non-Eco Village II Projects of the Corporate Debtor and complete the units of the allottees. Further, it is pertinent to note that the due diligence of the corporate debtor has been completed and reports are available with the stakeholders. Unfortunately, the investor selected for providing interim finance i.e., Oaktree has declined*

*to proceed forward with undertaking the proposed interim finance transaction.*

*(2) Following the directions of this Hon'ble Appellate Tribunal dated October 19, 2023, the IRP reached out to 11 shortlisted potential investors and requested them to submit their binding term sheet by November 10, 2023 after the expiry of the exclusivity period given to Oaktree i.e, October 31, 2023. Moreover, the IRP provided the access to the due diligence reports and other necessary data to the 11 potential investors after requisite non-disclosure agreements and release letters. Subsequently, multiple meetings were scheduled with the potential investors by the IRP and his team to explain the transaction and current status of the CIRP of Supertech Limited. However, no binding term sheets were received as on November 10, 2023. Subsequently, on November 11, 2023, the IRP informed all the interested investors that the timeline as specified by the court has elapsed and the interim finance process stands concluded.*

*3) However, Varde Partners, one of the potential investor, had a detailed discussion and meeting with the IRP and conveyed their interest in this opportunity since its inception, provided an exclusivity period of 3-4 weeks from the lenders/stakeholders shall be given to them in order to invest their time and efforts & submit a updated term sheet for interim financing in Non-Eco Village II Projects of the Corporate Debtor. Subsequently, in the Joint Lenders meeting held on November 18, 2023 and on November 20, 2023, the indicative terms of the investor were conveyed to the lenders in presence of the potential investor i.e., Varde. Moreover, in the said meeting, L&T Finance has given a go-ahead to provide exclusivity to Varde.*

*(4) The IRP had also approached, among other potential investors, the SWAMIH fund of State Bank of India for funding, who have responded vide aforementioned email dated November 15, 2023 that they were evaluating only 7-8 projects which prima-facie fits into their investment criteria and would take around 45-60 days to convey their interest in financing such projects.*

*5) Following the discussions in JLM and confirmation received from Varde Partners, and considering what has been stated hereinabove, it is hereby submitted in the humble opinion of the IRP that Varde Partners be granted an exclusivity period of 3-4 weeks to analyze and evaluate the transaction using the available due diligence reports. This period is intended for Varde to confirm their interest, if feasible, submit the binding term sheet, and resultantly infuse funds into the Corporate Debtor thereby ensuring completion of the construction activities of the projects and ultimately achieving resolution for all stakeholders involved.*

*(6) In case any such proposal is not deemed feasible, then the IRP be allowed to devise an alternative solution/ strategy by having detailed discussions with the Lenders/ Steering Committee and submit the same before this Hon'ble Appellate Tribunal, which may be taken up for evaluation and consideration.”*

3. Learned Counsel for the Union Bank of India also submits that they have no objection if 3-4 weeks time is allowed to Varde Partners.

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 an exclusivity period of 3-4 weeks to analyse and evaluate the transaction using the available due diligence report.

5. In view of the above submissions, we are inclined to grant further 3-4 weeks time to analyse and evaluate the transaction using the available due diligence report by Varde Partners.

6. We, however, are of the view that in the present case several orders were passed granting time for exploring the interim finance and till date no concrete

proposal has come forward and the time has been taken by Varde Partners to evaluate. It is not known that what outcome will come out of the said exercise.

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.

8. Learned Counsel appearing in various I.As has also submitted that there are several other issues pertaining to homebuyers and those who are living in the various projects. We are of the view that first question of interim finance need to be finalised and the way forward may be devised, only then the court shall proceed to consider the individual I.As and pass appropriate direction in those I.As. further.

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.

10. We direct this matter to be taken on **16.01.2024** at **2.00 PM**.

11. Learned Counsel for the IRP submits that with regard to fire safety projects is in progress and the amount which was already released has already exhausted.

12. Let the amount 2.5 crores be further release in terms as per earlier order dated 27.07.2023 passed by this Tribunal.

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

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

*sa/md*