

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 406 of 2022

&

I.A. No. 4579 of 2024

IN THE MATTER OF:

Ram Kishor Arora Suspended Director of Supertech Ltd. ...Appellant(s)

Versus

Union Bank of India & Anr. ...Respondent(s)
Present:

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

Mr. Hitesh Goel, RP in person.

Mr. P. Chaitanyashil, Mr. M.L. Lahoty, Mr. Pankaj Agarwal, Mr. Shashwat Srivastava, Mr. Sourav Roy, Ms. Vasudev Singh, Mr. Atharva Kotwal, Advocates for Noida Authority in IA No. 3174/2024.

Mr.

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

Mr. Bhaskar Tripathi, Mr. Venamra Mahaseth, Advocates for Supertech Hilltown Homebuyers Welfare Association.

Mr. MP Sahay, Mr. Yaman Verma, Mr. Kartik Jindal, Ms. Drishti Narbar, Ms. Srishti Malik, Advocates in IA No. 2763/2023.

Ms. Vibha Makhija, Sr. Advocate with Mr. Kushal Bansal, Mr. Ajinkya Kurdukar, Mr. Rahul Nagar, Advocates for Applicant/Intervenor in IA No. 5745,5747,5748/2024.

Mr. Amish Tandon, Ms. Anushree Kulkarni, Advocates in IA No. 3281/2022 for IFCI.

Mr. Amar Gupta, Mr. Mohit Sharma, Advocates for YEIDA.

Mr. Amit Trikha, Advocate for Applicant in IA No. 4579,4580/2024.

Mr. Akshat Singh, Advocate for Applicant in IA No. 3166/2024.

Ms. Dipti Singh, Mr. Martand Narayan Shukla, Mr. Harish Kumar Gaur, Mr. Akshay, Advocates for UP Country Buyer's Association.

Mr. Nikhil Mehndiratta, Advocate for Applicant in IA No. 3776/2023 for ACRE.

Mr. Amit Singh, Advocate for Residents of Eco-Village -I (IA No. 5544/24)

Mr. Iswar Mohapatra, Mr. Santosh Rout, Mr. S. B. Tripathi, Advocates for Bank of Baroda.

Mr. Tanveer Oberoi, Advocate for Applicant in IA No. 4316/2023.
Mr. Alok Kumar, Mr. Somya Yadava, Advocate for R-1/UBI.
Ms. Vibha Datta, Mr. Karan Mangain, Advocates
Mr. Gopal Jain, Sr. Advocate with Mr. G.G. Kashyap, MR. Ranvijay Gohain,
Ms. Anam Ahmed, Advocates for NBCC Ltd.
Mr. Nishant Awana, Advocate for consortium lenders of eco-village III.
Mr. Arvind Nayar, Sr. Advocate, Ms. Vanita Bhargav, Ms. Wamika Trehan, Mr.
Siddhant Kumar, Advocates for L &T Finance Ltd. for ARCIL.
Mr. UK Chowdhary, Mr. Abhijeet Sinha, Sr. Advocates with MR. Siddharth
Bhatli, Ms. Khyati Jain, Ms. Anesha Jain, Mr. Bhupender, Advocates.

ORDER
(Hybrid Mode)

09.08.2024: **IA No. 4579 and 4580 of 2024**

This application is filed by Mr. SANJIV TRIKHA praying for clarification as to whether the insolvency proceedings which is subject matter of the present appeal the project 34 Pavilion at Sector 34 Noida is included.

2. In this appeal we have passed orders with regard to projects of the corporate debtor which are up for consideration. The submissions of the Applicant are that the project 34 Pavilion at Sector 34 Noida was completed and possession handed over around 2014 hence the said project does not find mention in any of the orders passed in this appeal with projects are under consideration.

3. Ld. Counsel for the Appellant also submits that since the possessions were handed over hence the project has not been included in the list of the project. Ld. Counsel for the Appellant submits that Registry of the units is pending due to some objections by Noida Authority.

4. Be that as it may, the project in question having already been completed in 2014 and possession handed over and the said project does not find mention in any of the orders and the list given by the IRP or by the Appellant, we clarify that project 34 Pavilion at Sector 34 Noida is not part of subject matter of this appeal however we have perused order that moratorium against Corporate Debtor is continuing. Application disposed of.

5. Heard Shri Nakual Dewan, Ld. Sr. Counsel for the IRP, Shri Gopal Jain, Ld. Sr. Counsel appearing for the NBCC, Shri UK Chowdhary and Shri Abhijeet Sinha, Ld. Sr. Counsels appearing for the Appellant. We have heard Ld. Counsels appearing for UBI other lenders and Ld. Counsels appearing for the Homebuyers and homebuyers authorised representative Shri Navin Pahwa, Ld. Sr. Counsel appeared for landowners in the Araville Project.

6. Ld. Sr. Counsel Mr. Gopal Jain, submits that an application has been e-filed by the NBCC dated 31.07.2024 Where the NBCC has expressed its interest in the projects of the Corporate debtor and has prayed for certain time to complete the due diligence and submit an appropriate detailed project report.

7. Shri Dewan, Ld. Sr. Counsel submit that after receiving the information from the NBCC all available data has been shared with the NBCC and it is for the NBCC to do their due diligence and come with their proposal with regard to the projects which are subject matter of the consideration.

8. Shri Dewan, Ld. Sr. Counsel submit that this court has already directed for project wise hearing in the previous orders and only a reasonable time be allowed to and NBCC to come with their project wise offer and their detailed projects report in which they are interested since the constructions of the projects have been delayed due to various factors as noted in earlier orders and further delay will cause harm the interest of all the stakeholders including the homebuyers.

9. We have already in our order dated 15.07.2024 notice the request made on behalf of the NBCC. We thus are of the view that NBCC has to complete its due diligence with the data which has been shared by the IRP and has to submit its detailed project report and projects it proposes to construct and other terms and conditions which reports should be filed on or before 06.09.2024 after serving the copy on the IRP as well as the Ld. Counsel for the Appellant. Ld. Counsel for the IRP may also share the application and detailed project report as submitted by the NBCC to lenders and other stakeholders.

10. Ld. Counsel for the IRP submit that in pursuance of the earlier order dated 15.07.2024 they have already written to the Greater Noida Authority with regard to Project- Sports Village in paragraph 5 and 6 of the order dated 15.07.2024 we have directed as follows:

“5. Learned Counsel for the IRP submits that with regard to the Green Village Meerut and Sports Village, the Meetings were held as was earlier proposed by the IRP. It is submitted that Meetings were held both with the Homebuyers as well as the Stakeholders. IRP submits that the interest has been shown in both the villages by

developers which have been noticed. It is submitted that revised proposal for projects Green Village Meerut and revised proposal for projects Sports Village have also been submitted on 08.07.2024 and Status Report has been handed over dated 08.07.2024 to the Court where details of the steps taken with regard to Green Village Meerut and Sports Village have been mentioned including the Meetings and interest received and other details. It is submitted that with regard to Sport Village, the Greater Noida Authority has to intimate the FAR available to the Developer for carrying out the Project.

6. We are of the view that IRP may send the communication in above respect to the Greater Noida Authority and elicit their answer with regard to the FAR as on date with regard to the Sport Village and the nature of the development which is permissible as per the law. We have noticed above that NBCC who has shown interest in the Projects of Corporate Debtor has yet to make any detail submissions, the NBCC has yet to receive the relevant data and documents and submit their proposal”.

11. It is submitted that no response has not yet been received from the Greater Noida Authority. IRP may send a letter to the Greater Noida Authority requesting them to communicate their decision regarding the revised FAR before the next date by 06.09.2024.

12. Shri Dewan, Ld. Sr. Counsel further submitted that the issue pertaining to the maintenance agency towards maintaining the project as for the agreement with the erstwhile management has been given a show cause notice on 13.07.2024 pointing out the deficiencies has been referred to by the various homebuyers regarding the maintenance. It is submitted that reply has yet to be received.

13. Shri Dewan, Ld. Sr. Counsel further submits that there are no finances available to the IRP to proceed further. He submits that certain measures have to be taken for generating finance for keeping the corporate debtor as a going

concern. He submits that there are certain unsold inventories in which there are no charge of lenders or any lending claim. He prays liberty to file an application giving the details of all such units' unsold inventories which he proposes to utilise for generating finance. Liberty is given to the IRP to file an application giving all relevant details of the project name, unit, the name of charge holder if any, lenders and the said details along with application may also be put on website so that all concerned may assist the said application and hence when the application comes for consideration objections, if any may be considered. (non-eco village).

14. Shri Nakul Dewan, Ld. Sr. Counsel for the IRP has submitted that an affidavit has been filed on 30.07.2024 with regard to fire safety business. He submits that by order passed in February, 2024, Rs. 2.5 Crores has permitted to be utilised, he prays that amount of Rs. 2.5 Crores be permitted to be utilised as per the terms and conditions as recorded in the order dated 12.02.2024. We allow the prayer of utilisation of Rs. 2.5 Crores.

15. We further notice that although this court has already fixed the dates for consideration of project wise resolution and several meetings were also conducted as directed by this Tribunal in earlier orders. IRP has also filed the status report bringing on record the outcome of the meeting. He further submits the hearing of the project wise resolution was adjourned due to request made on behalf of the NBCC showing his interest.

16. We are of the view that NBCC has to take the speedy steps and come with a DPR in event they are interested to carry out the projects of the corporate debtor which may be filed by 06.09.2024 positively as directed by this order further course of action be which shall be decided after the said

DPR is received if any. We direct this appeal to be listed on **12.09.2024** at 2:00 PM as first case.

17. Shri Navin Pahwa, Ld. Sr. Counsel seeks a liberty to file an objection on behalf of landowner in Araville Project. He may do so within a week.

18. Shri Nakul Dewan, Ld. Counsel has referred to the order dated 27.05.2024 wherein paragraph 5 we have passed the following order:

“5. Learned counsel for the IRP submits that with regard to CIRP cost there are certain CIRP cost in ECO Village-2 which need to be paid. IRP is at liberty to bring all materials before the Committee of Creditors for appropriate decision”.

19. He submitted that although all details have been given to the CoC of the Eco-Village II regarding the CIRP expenses, CIRP Cost but no decision has been taken. Let the IRP submit a reminder to the CoC requesting them to take a decision with regard to CIRP Cost before the next date. It is expected that a decision may be taken by the CoC before the next date fixed in the matter.

20. Counsel for the Bank of Baroda submits that an OTS proposal has been received from the promoter with regard to Doon Square Project.

21. Ld. Counsel for the IRP may also file a response to the project report received from the NBCC before the date fixed.

22. **IA No. 3166/2024** has been filed by IDBI Bank. Ld. Counsel for the Appellant submits that the application has become infructuous. Dismissed as infructuous.

**[Justice Ashok Bhushan]
Chairperson**

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

sr/nn