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A

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2025**

IN THE MATTER OF:

BANK OF MAHARASHTRA & ANR

APPELLANTS

VERSUS

UNION BANK OF INDIA & ORS

RESPONDENTS

OFFICE REPORT ON LIMITATION

1. The Petitioner is/ are within time.
2. The Petition is barred by time and there is delay of **NIL** days in filing the same against common order dated **12.12.2024** and Petition for Condonation of **NIL** days delay has been filed.
3. There is delay of _____ days in re-filing the Petition and Petition for Condonation of ___ days in re-filing has been filed.

BRANCH OFFICER

NEW DELHI

DATED:

A1

ANNEXURE 'Y'

PROFORMA FOR FIRST LISTING

SECTION _____

The case pertains to (Please tick/check the correct box):

- Central Act: (Title) _____ IBC
N.A.
- Section: _____ N.A.
- Central Rule: (Title) _____ N.A.
- Rule No(s) _____ N.A.
- State Act: (Title) _____ N.A.
- Section: _____ N.A.
- State Rule: (Title) _____ N.A.
- Rule No(s) _____ N.A.
- Impugned Interim Order: (Date) _____ N.A.
- Impugned Final Order/Decree: (Date) _____ 12.12.20214
- High Court: (Name) _____ NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
- Names of Judges: _____ [Justice Ashok Bhushan] Chairperson
[Barun Mitra] Member (Technical)
- Tribunal/Authority:(Name) _____ N.A.
1. Nature of matter: Civil
2. (a) Petitioner/appellant No. 1: _____ BANK OF MAHARASHTRA
(b) e-mail ID: _____ N.A
(c) Mobile phone number: _____ N.A
3. (a) Respondent No. 1: _____ UNION BANK OF INDIA
(b) e-mail ID: _____ NA
(c) Mobile phone number: _____ N.A

4. (a) Main category classification: 10
(b) Sub classification: 1006
5. Not to be listed before: N.A
6. (a) Similar disposed of matter with citation, if any, & case details: No Similar matter is disposed of.
(b) Similar pending matter with case details: No similar matter is pending
7. Criminal Matters:
- (a) Whether accused/convict has surrendered: Yes No
(b) FIR No. NA Date: NA
(c) Police Station: NA
(d) Sentence Awarded: NA
(e) Period of sentence undergone including period of detention/custody undergone NA
(f) Whether any earlier case between the same parties is filed NA
(g) Particulars of the FIR and Case NA
(h) Whether any bail application was preferred earlier and decision thereupon NA
8. Land Acquisition Matters:
- (a) Date of Section 4 notification: N.A
(b) Date of Section 6 notification N.A
(c) Date of Section 17 notification N.A
9. Tax Matters: State the tax effect: N.A
10. Special Category (first petitioner/appellant only):
- Senior Citizen > 65 years SC/ST Woman/Child Disabled
 Legal aid case In custody
11. Vehicle Number (in case of Motor Accident Claim matters):
12. **Whether there was / is litigation on the same point of law, if yes, details thereof** _____

Date: AOR for petitioner(s)/appellants(s)
(Name) RITWIK PARIKH
Registration No. 3608

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**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2025**

**(AGAINST THE INTERIM ORDER DATED 12.12.2024 PASSED BY
THE HON'BLE NATIONAL COMPANY LAW APPELLATE
TRIBUNAL, NEW DELHI IN COMPANY APPEAL (AT)
(INSOLVENCY) NO.406 OF 2022.)**

[PRAYER FOR INTERIM RELIEF]

IN THE MATTER OF:

BANK OF MAHARASHTRA & ANR

APPELLANTS

VERSUS

UNION BANK OF INDIA & ORS

RESPONDENTS

WITH

1.A. NO. _____ OF 2025

APPLICATION FOR PERMISSION TO FILE CIVIL APPEAL.

1.A. NO. _____ OF 2025

**AN APPLICATION FOR EXEMPTION FROM FILING CERTIFIED COPY
OF IMPUGNED ORDER**

1.A. NO. _____ OF 2025

AN APPLICATION FOR EX-PARTE STAY

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR THE APPELLANT: MR. RITWIK PARIKH

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RECORD OF PROCEEDINGS

Sr No.	Date of ROP	Pages
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B

SYNOPSIS

The present Civil Appeal arises from the Impugned Order dated 12.12.2024 passed by the Hon'ble NCLAT, whereby the proposal dated 11.11.2024 submitted by Respondent No.3/ NBCC (India) Ltd. was approved for the resolution of 16 projects of M/s Supertech Limited, including "Eco-Village III." The Appellants, Bank of Maharashtra and Bank of Baroda collectively constituting nearly 76% of the total financial debt in "Eco-Village III," challenge the Impugned Order, inter-alia, that the Hon'ble NCLAT has acted beyond its judicial mandate by stepping into the domain of stakeholders including Financial Creditors and exercised commercial wisdom under the pretext of judicial authority.

The Appellants had sanctioned ₹225 crores out of the total credit facility of ₹300 crores for the said "Eco-Village III" project in Greater Noida, Uttar Pradesh. There are three lenders for the said project: Appellant No. 1/Bank of Maharashtra, Appellant No. 2/ Bank of Baroda, and Respondent No. 1/ Union Bank of India.

Subsequently, M/s Supertech Limited was admitted into insolvency proceedings under the Corporate Insolvency Resolution Process (CIRP) initiated by the Union Bank of India, with the NCLT, Delhi, passing the admission order on 25.03.2022 in IB No. 204/2021 titled as "*Union Bank of India v. Supertech Limited*".

An Appeal being Company Appeal (AT) (Insolvency) No. 406 of 2022 was filed before the Hon'ble National Company Law Appellate Tribunal ("**Hon'ble NCLAT**") against the CIRP Order by the Shri R.K. Arora, suspended director of M/s Supertech Limited and the Hon'ble NCLAT directed the IRP not to constitute the Committee of Creditors of M/s Supertech Limited.

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Recognizing the complexity and challenges posed by the multiple real estate projects of M/s Supertech Limited, the Hon'ble NCLAT, vide its order dated 10.06.2022, emphasized the necessity of a **project-wise resolution**. It directed that projects other than "Eco-Village II" continue as ongoing projects under the supervision of the Interim Resolution Professional (IRP), with CoC formation restricted to "Eco-Village II." The said order was affirmed by the Hon'ble Supreme Court on 11.05.2023, which observed that a project-specific approach would safeguard homebuyers' and creditors' interests and avoid unnecessary disruptions.

The Respondent No.2/IRP, in compliance with the Hon'ble NCLAT's directions, prepared and circulated draft project-specific resolution proposals. A meeting was convened with the Appellants on 16.03.2024 to discuss the proposals. On 22.05.2024, Appellant No. 2 / Bank of Baroda received a One-Time Settlement (OTS) proposal from the suspended director of M/s Supertech Limited for the **"Doon Square" project**. The OTS proposal was accepted, leading to a successful project-specific resolution under the supervision of the Hon'ble NCLAT vide its order dated 16.10.2024.

Meanwhile, NBCC (India) Limited initially filed its first proposal application before the Hon'ble NCLAT, which was found to be incomplete and lacking clarity. Consequently, the Hon'ble NCLAT, vide its order dated 21.10.2024, directed NBCC to file a fresh and detailed composite proposal, project-wise, for the resolution of all 16 projects of M/s Supertech Limited, including "Eco-Village III." In compliance with the directions, NBCC filed its consolidated proposal on 11.11.2024.

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The Respondent No. 3/ NBCC Ltd. filed an Application in CA 5941/2022 titled “*Union Bank of India Vs. Ram Kishor Arora Suspended Director of M/s. Supertech Ltd. &Anr.*” before the Hon'ble Supreme Court of India and on 01.10.2024 held as follows:

“The parties are at liberty to raise all pleas and contentions before the NCLAT. We make no comments or observations in this regard, except stating that the pendency of the present appeals and the present application, on which notice has been issued, will not bar or prohibit the NCLAT from passing appropriate orders. The parties, if aggrieved by any such order, will be entitled to challenge the same in accordance with law.”

Following NBCC's submission of the revised proposal, a Joint Lenders Meeting (JLM) was convened on 01.12.2024 to discuss the proposed plan. During the meeting, significant objections were raised by the consortium of lenders, including Appellant No. 1/Bank of Maharashtra, Appellant No. 2/ Bank of Baroda and Respondent No. 1/Union Bank of India, which acts as the leader of the consortium. The primary concerns highlighted by the lenders were the lack of a clear repayment mechanism, the exclusion of interest payments, the cross-subsidization of projects through surplus fund transfers, and the excessive construction costs and Project Management Consultancy (PMC) fees amounting to 8% of the total cost.

The Respondent No.1/Union Bank of India, as the leader of the consortium, subsequently decided to file detailed objections to the NBCC proposal before the Hon'ble NCLAT on behalf of the lenders. These objections emphasized that the proposal was unviable and failed to

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protect the interests of financial creditors. The Appellants also filed their individual objections, reiterating that the proposal did not guarantee timely and adequate repayment to creditors and placed undue reliance on surplus transfers from one project to another.

In addition to the financial creditors, other stakeholders, including Yamuna Expressway Industrial Development Authority (YEIDA) and New Okhla Industrial Development Authority (NOIDA), also filed their objections to the NBCC proposal. Their concerns primarily related to outstanding statutory dues and the unworkable approach of transferring surplus funds between projects, which would delay the settlement of their claims.

Despite the strong opposition from the lenders and other stakeholders, the Hon'ble NCLAT approved the NBCC proposal through its impugned order dated 12.12.2024. This approval disregarded the project-specific resolution approach previously affirmed by the Hon'ble Supreme Court and failed to address the concerns raised by key stakeholders, including the financial creditors and statutory authorities, who hold significant exposure in "Eco-Village III."

The Hon'ble NCLAT erred in substituting its decision over the commercial wisdom of the stakeholders, including the Appellants, by approving NBCC's proposal under a PMC model that fails to satisfy the repayment obligations of financial creditors. The repayment mechanism is vague and arbitrary, making repayments subject to the approval of the Apex Court and Project-Wise Court Committees, which creates significant uncertainty and delays for creditors, including the Appellants.

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The repayment mechanism approved under the NBCC proposal allocates only 30% of project receivables for financial creditors while subordinating their dues to construction costs and CIRP expenses. This vague arrangement disregards creditor interests and violates the priority prescribed under Section 53 of the IBC. Further, the mechanism excludes accrued interest, limiting repayments to principal dues, which is arbitrary, unjust, and prejudicial to financial creditors who are entitled to recover both principal and interest.

The repayment mechanism lacks clarity regarding the quantum and timelines for repayment to financial creditors. Creditors are placed at third priority behind construction costs and CIRP expenses, and repayment is further subjected to standards of feasibility and viability determined by NBCC and the Committees. This exposes financial creditors to indefinite delays and risks of non-repayment.

The NBCC proposal inflates construction costs to ₹10,200 crores, nearly double the amount estimated by the IRP, and imposes an excessive PMC fee of 8%, amounting to ₹800 crores. These inflated costs significantly reduce the funds available for creditor repayment and further undermine the financial viability of the resolution plan.

NBCC's proposal does not impose any liability or accountability for project completion, despite its poor track record in delivering projects such as Amrapali, raising concerns about its ability to complete the 16 projects within the proposed timeline. Furthermore, the Hon'ble NCLAT directed financial creditors to release their security interests and provide No Objection Certificates for decisions made by the Committees without

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ensuring adequate repayment, which prejudices the rights of the Appellants and other lenders.

The framework approved by the Hon'ble NCLAT allows only one nominee from the consortium of financial creditors to represent them in the Project-Wise Court Committees. This approach is impractical and inequitable, as the lenders for Eco-Village III, including the Appellants and Union Bank of India, have differing priorities. The approved framework also permits the transfer of surplus funds between projects, contrary to the principles of project-specific resolution. Such surplus should have been allocated toward full repayment of creditor dues within the respective projects.

The Hon'ble NCLAT failed to consider viable alternatives, such as the OTS proposal received by the Appellants for "Eco-Village III," which offers defined repayment terms, shorter timelines, and upfront payments. The successful resolution of the "Doon Square" project through a similar OTS demonstrates the viability and efficiency of project-specific resolutions over a generalized plan.

The Hon'ble NCLAT prematurely approved NBCC's proposal without first adjudicating the objections raised by the Appellants, YEIDA, NOIDA, and other stakeholders, which highlighted significant concerns about repayment mechanisms and financial viability. Further, the Hon'ble NCLAT granted broad and discretionary powers to the Apex Court Committee for surplus fund transfers and repayment approvals, creating uncertainty and undermining creditor protections.

The Appellants received an OTS proposal for "Eco-Village III" offering 105% repayment of the ledger balance, upfront payments, and expedited

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project completion within a defined timeline. This superior alternative, which aligns with creditor and homebuyer interests, was ignored by the Hon'ble NCLAT in favor of the NBCC proposal, which lacks clarity, accountability, and financial viability. The Appellants remain committed to the resolution of "Eco-Village III," ensuring expedited delivery of units to homebuyers and definitive repayment of creditors' dues.

Aggrieved by the Impugned Order, hence, this present Civil Appeal

LIST OF DATES

Date	Event
12.01.2015	Appellant No. 2/ Bank of Baroda issued a sanction letter to M/s Supertech Limited, sanctioning a loan of ₹75.00 crores for the " Eco-Village III " project at GH-06, Sector 16 B, Greater Noida, U.P.
12.05.2015	Appellant No. 1/ Bank of Maharashtra sanctioned credit facilities of ₹150 crores for part-financing the construction of the " Eco-Village III " housing project.
25.03.2022	M/s Supertech Limited was admitted into insolvency proceedings by NCLT, Delhi, in IB No. 204/2021 titled as " <i>Union Bank of India v. Supertech Limited</i> ". An Interim Resolution Professional (IRP) was appointed.
12.04.2022	An Appeal being Company Appeal (AT) (Insolvency) No. 406 of 2022 was filed before the Hon'ble National Company Law Appellate Tribunal (" Hon'ble NCLAT ") against the CIRP Order by the Shri R.K. Arora, suspended director of M/s Supertech Limited and the Hon'ble Appellate Tribunal directed the IRP not to constitute the Committee of Creditors of M/s Supertech Limited.
10.06.2022	The Hon'ble NCLAT directed that other projects apart from the Eco Village-II Project shall proceed as ongoing project basis under the overall supervision of the IRP with the assistance from the promoters of M/s Supertech Limited who were ready to extend all cooperation with all its staff and employees to the IRP

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	<p>towards construction of all projects. The Hon'ble NCLAT even emphasised the need for project-wise resolution in CIRP Process for successful resolution. It was further directed that the CoC be constituted for Eco Village-II Project for resolution of such project.</p> <p>Further, the Hon'ble NCLAT, in its order, explicitly and significantly emphasized that the pendency of proceedings shall in no way restrict or hinder the Financial Creditors from entering into settlement agreements with the Respondent No.4 herein. The relevant excerpt of the Order is reproduced hereinbelow:</p> <p style="text-align: center;"><i>“24.....The pendency of this proceeding shall in no manner hinder the Appellant to approach the Financial Creditors for entering into Settlement with the Financial Creditors. With regard to the disbursement to the Financial Creditors, out of 30% of the amount, we shall issue necessary direction after receiving the status report and receiving the progress of the projects.”</i></p>
<p>28.09.2022</p> <p style="text-align: center;">-</p> <p>21.11.2022</p>	<p>The Hon'ble NCLAT permitted Respondent No.2/ Interim Resolution Professional to appoint agencies at the for conducting the due diligence.It was further directed that ex-management, investors and IRP to finalise the term sheet for</p>

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	investment, if any
27.01.2023	The Respondent No. 1/Union Bank of India, by way of a Civil Appeal, challenged the order passed by the Hon'ble NCLAT on 10.06.2022, regarding project-wise insolvency. The operation of the said order was stayed by this Hon'ble Court vide its order dated 27.01.2023.
11.05.2023	<p>Against the order dated 10.06.2022, appeals were preferred before this Hon'ble Court by certain financial creditors including Respondent No.1/Union Bank of India, being Civil Appeal No.1925/23 and 5941/22. This Hon'ble Court, <i>inter alia</i>, passed an order dated 11.05.2023 observing that it would be detrimental to the Homebuyers if the entire company goes into Insolvency and upheld the order dated 10.06.2022 passed by the Hon'ble NCLAT. This Hon'ble Court held as follows:</p> <p style="text-align: center;"><i>“10. In our view, greater inconvenience is likely to be caused by passing any interim order of constitution of CoC in relation to the corporate debtor as a whole; and may cause irreparable injury to the home buyers. In this view of the matter, we are not inclined to alter the directions in the order impugned as regards the projects other than Eco Village-II.”</i></p>
12.02.2024	The Respondent No 2/ IRP suggested that a way forward can only be a project-wise resolution for the M/s Supertech Ltd., as each project involves different lenders and creditors. This

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	<p>approach was officially recorded in the Hon'ble NCLAT order dated 12.02.2024, emphasizing a tailored resolution process for each project. The relevant excerpt of the Order dt. 12.02.2024 is reproduce hereinbelow:</p> <p><i>“6.....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.”</i></p>
16.03.2024	A meeting between the IRP and representatives of the Appellants was convened to discuss project-wise resolution drafts in terms of compliance with the Order dt. 12.02.2024 passed by the Hon’ble NCLAT. The said draft project-wise resolution report was filed on 21.03.2024.
22.05.2024	Appellant No. 2/ Bank of Baroda received an OTS Proposal from the suspended director of M/s Supertech Ltd. regarding “Doon Square Project” as being a sole lender in the project.
09.08.2024	Appellant No. 2/ Bank of Baroda accepted an OTS proposal from the suspended director of M/s Supertech Ltd. for the Doon Square project.
06.09.2024	An Intervention Application (IA No. 6557/2024) was filed by Respondent No. 3/ NBCC Ltd. in CA(AT)(Ins) 406 of 2022 before the Hon’ble National Company Law Appellate Tribunal showing its interest to undertake construction of

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	<p>M/s Supertech Ltd. but as a Project Management Consultant (PMC). It is pertinent to mention that the application filed by Respondent No. 3 has been loosely titled as a '<i>Proposal on behalf of NBCC (India) Limited,</i>' whereas the said application did not present any substantive proposal but can, at best, only be described as a 'proposal to give a proposal'.</p>
01.10.2024	<p>Respondent No. 3/ NBCC Ltd. filed an Application in CA 5941/2022 titled "<i>Union Bank of India Vs. Ram Kishor Arora Suspended Director of M/s. Supertech Ltd. &Anr.</i>" before the Hon'ble Supreme Court of India and on 01.10.2024 held as follows:</p> <p style="text-align: center;"><i>"The parties are at liberty to raise all pleas and contentions before the NCLAT. We make no comments or observations in this regard, except stating that the pendency of the present appeals and the present application, on which notice has been issued, will not bar or prohibit the NCLAT from passing appropriate orders. The parties, if aggrieved by any such order, will be entitled to challenge the same in accordance with law."</i></p>
16.10.2024	<p>The Hon'ble NCLAT permitted the implementation of the Doon Square project's resolution agreement, marking the successful adoption of a project-specific resolution. The Hon'ble NCLAT vide its Order held:</p> <p style="text-align: center;"><i>"5. We have taken note of the order of the</i></p>

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	<p><i>Hon'ble Supreme Court and the said order in no manner prohibit in proceeding with the project "Doon Square", Further the master agreement having entered between into the parties, we thus, are of the view that master agreement be implemented and all necessary steps be taken to complete the project within the time line as provided in the agreement.</i></p> <p><i>6. IA No. 7184/2024- Ld. Counsel for the IRP as well as Counsel for the Appellant seeks time to file the response to the application. Let response be filed within two weeks.</i></p> <p><i>7. List on 21.10.2024.</i></p> <p><i>8. All IA of Project Doon Square stand disposed of."</i></p>
21.10.2024	The Hon'ble NCLAT, after observing that the earlier proposal submitted by NBCC cannot be relied on, directed NBCC to submit a fresh project-wise proposal after considering the objections from Land Authorities, Creditors, and Homebuyers.
11.11.2024	In furtherance to order dt. 21.10.2024, NBCC submitted a proposal for the completion of 17 Supertech projects, stating that surplus funds from some projects would be required to complete others and proposing a generalized approach rather than a project-wise resolution.

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14.11.2024	M/s Supertech Limited submitted a settlement proposal to the Appellants, offering 100% repayment of the ledger balance, with 10% upfront and the remainder over three years, subject to Tribunal approval.
22.11.2024 - 28.11.2024	Appellant No.2/Bank of Baroda filed its objections by way of I.A.8396 OF 2024 in CA (INS) No. 406 of 2022 and also filed objections in I.A. filed by Respondent No.3/NBCC.
30.11.2024	The Appellants received a modified settlement proposal from M/s Supertech Limited with revised terms.
01.12.2024	<p>On 01.12.2024, a Joint Lenders Forum meeting was held between the Union Bank of India, Appellants, Punjab & Sindh Bank, and IDBI Bank Ltd. In this meeting, all the consortium lenders of M/s Supertech Limited expressed their concerns/objections to the proposal submitted by the NBCC.</p> <p>The primary objections of the lenders qua the proposal of the NBCC are as follows:</p> <ul style="list-style-type: none">a) The proposal of NBCC is incomplete and lacks clarity.b) There is no proper repayment schedule for the lenders.c) NBCC is infusing surplus money of one of the projects into another project when the same can be utilized towards the clearance of the dues of the lenders. <p>It was further decided that Respondent No.1/Union Bank of India, as the lead bank, would file submissions on behalf of the entire consortium, including the Appellants, to present</p>

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	collective objections against the NBCC proposal before the Hon'ble NCLAT
02.12.2024	Union Bank of India, Appellant No.1/Bank of Baroda filed Written Submissions against Proposal dated 11.11.2024 filed by NBCC. Appellant No.2/Bank of Maharashtra filed an I.A.placing on record its objections against NBCC Proposal.
12.12.2024	The Hon'ble NCLAT passed the Impugned Order, approving NBCC's proposal with certain modifications for the resolution of 16 Supertech Projects disregarding the objections and concerns of various stakeholders including the Appellants.
09.01.2025	The Appellants received an OTS proposal dated 09.01.2025 from the suspended director of Supertech Limited with regards to taking over the Project Eco-Village III, which offers certainty in repayment terms, clear timelines of two years, defined source of funds, a defined quantum of repayment at 105% of the Ledger Balance and upfront payments of 10%, along with expedited delivery of units to homebuyers within a guaranteed timeframe of 12-36 months. The proposal is currently under consideration by the Lenders including the Appellants and Respondent No.1/ Union Bank of India.
27.01.2025	Aggrieved by Impugned Order dt. 11.12.2024, the present appeal is filed

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2025
(AGAINST THE INTERIM ORDER DATED 12.12.2024 PASSED
BY THE HON'BLE NATIONAL COMPANY LAW APPELLATE
TRIBUNAL, NEW DELHI IN COMPANY APPEAL (AT)
(INSOLVENCY) NO.406 OF 2022.)**

Between	Position of the Parties	
	Before the NCLAT	Before this Hon'ble Court
<u>IN THE MATTER OF:</u>		
1. BANK OF MAHARASHTRA Through its Authorized Representative Chief Manager, Mr. Nihar Ranjan Rout Stressed Assets Management Branch, B-29, Connaught Place, New Delhi-110005 Mob.9610802345 Email legal_del@mahabank.co.in	Intervenor	Appellant No.1
2. BANK OF BARODA Through Its AGM , Mr. Tripathi Sudhakar Bhai ZOSARB, 4 th Floor, Rajendra Bhawan, Rajendra Place, New Delhi-110008 Mob.8959215809 Email armdel@bankofbaroda.com	Intervenor	Appellant No.2
Versus		
1. UNION BANK OF INDIA Through its Chief Manager Stressed Assets Management Vertical Branch, M-93 Connaught Place, New Delhi-110001 Email cb0606@unionbankofindia.com	Respondent No.1	Respondent No.1

<p>2. Shri Hitesh Goel Interim Resolution Professional M/s. Supertech Limited Address: Building No. 10, Tower C, 8th Floor, DLF Cyber City, Phase II, Gurgaon, Haryana- 122002 Email hiteshgoel83@gmail.com</p>	Respondent No. 2	Respondent No. 2
<p>3. NBCC (India) Ltd. Through its Executive Director (Finance) NBCC Bhawan, Lodhi Road, New Delhi-110003 Email bdd@nbccindia.com</p>	Intervenor	Respondent No. 3
<p>4. Shri Ram Kishore Arora, Suspended Director of Supertech Limited C-10. Sector 35, Noida, UP-201301 Email rka@supertechlimited.com</p>	Appellant	Respondent No. 4

TO,

**THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF THE
HON'BLE SUPREME COURT OF INDIA**

**THE HUMBLE APPEAL OF THE
APPELLANTS ABOVE NAMED:**

MOST RESPECTFULLY SHEWETH:

1. That the present Appeal is filed under Section 62 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '**IBC**'), assailing the final order and judgment dated 12.12.2024 passed by the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi (hereinafter referred to as '**NCLAT**') in Company Appeal (AT) (Insolvency) No. 406 of 2022. Vide the Impugned Order, the Hon'ble NCLAT has erroneously approved the proposal submitted by NBCC
- 1.A The NBCC India Ltd (Respondent No.3) filed an intervention application being I.A No. 6557/24 in Company Appeal (AT) (Insolvency) No. 406 of 2022 which is Annexure A-5.

<p>2. Shri Hitesh Goel Interim Resolution Professional M/s. Supertech Limited Address: Building No. 10, Tower C, 8th Floor, DLF Cyber City, Phase II, Gurgaon, Haryana- 122002</p>	Respondent No. 2	Respondent No. 2
<p>3. NBCC (India) Ltd. Through its Executive Director (Finance) NBCC Bhawan, Lodhi Road, New Delhi-110003</p>	Intervenor	Respondent No. 3
<p>4. Shri Ram Kishore Arora, Suspended Director of Supertech Limited C-10. Sector 35, Noida, UP-201301</p>	Appellant	Respondent No. 4

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(India) Limited for the resolution of 16 projects of M/s Supertech Limited, including “Eco-Village III,” without adhering to the principles of project-specific resolution laid down in its own orders dated 10.06.2022 and 21.10.2024, as well as the judgment of this Hon’ble Court dated 11.05.2023 in Civil Appeal Nos. 1925/2023 and 5941/2022. The impugned order has not only disregarded viable alternatives, including the One-Time Settlement (OTS) proposal received by the Appellants for “**Eco-Village III**,” but has also failed to safeguard the interests of financial creditors and other stakeholders by approving a vague and impractical repayment mechanism. The approval of the NBCC proposal undermines the commercial wisdom of financial creditors, including the Appellants, who hold nearly 76% of the financial debt in “Eco-Village III,” thereby necessitating the intervention of this Hon’ble Court.

2. QUESTION OF LAW:

- I. Whether the directions passed by the Hon’ble NCLAT vide Impugned Order dated 12.12.2024 has departed from its earlier interim order dated 10.06.2022 directing for project-wise resolution which was affirmed & confirmed by this Hon’ble Court vide order dated 11.05.2023, passed in Civil Appeal No. 5941/2022, Civil Appeal No. 1925/2023 & Civil Appeal No. 1975/2023?
- II. Whether the Hon’ble NCLAT erred in approving NBCC’s proposal, which imposes contractual obligations on financial creditors, homebuyers without their consent and bypasses the

principle of commercial wisdom which is paramount in resolution of companies?

- III. Whether the Hon'ble NCLAT erred in approving NBCC's proposal dated 11.11.2024 for the completion of 16 projects of M/s Supertech Limited including Project "*Eco-Village III*", despite clear objections raised by the Appellants, other financial creditors and Land Authorities concerning its feasibility, vague repayment mechanism, and lack of financial commitment?
- IV. Whether the Hon'ble NCLAT erred in directing simultaneous repayment of financial creditors without a clear and enforceable timeline, quantum of payment, or defined priority for repayment, thereby violating the waterfall mechanism under Section 53 of the IBC?
- V. Whether the Hon'ble NCLAT failed to observe that the resolution of the Doon Square Project through the OTS proposal, which culminated in a Master Agreement with defined repayment terms, clear construction timelines, and specified developer obligations, demonstrated a more viable and effective project-specific approach compared to the ambiguous and uncertain NBCC proposal?
- VI. Whether the Hon'ble NCLAT was justified in granting broad, unfettered powers to the Apex Court Committee for surplus transfers, project fund management, and repayment approvals, without clear safeguards to protect the interests of financial creditors and other stakeholders?

- VII. Whether the Hon'ble NCLAT erred in approving the NBCC proposal without exploring other available proposals that offered more favorable terms, including defined reduced timelines for project completion and better repayment terms for financial creditors, such as the OTS proposal implemented for the Doon Square project?
- VIII. Whether the Hon'ble NCLAT erred in approving the NBCC proposal, which limits repayment to only the principal dues of financial creditors while excluding the interest component, thereby violating the rights of creditors to recover interest?
- IX. Whether the Hon'ble NCLAT erred in approving the NBCC proposal, resulting in the waiver of security interest held by the Financial Creditors including the Appellants, without their consent?
- X. Whether the Hon'ble NCLAT erred in disregarding the objections raised in the Joint Lender Meeting held on 01.12.2024, where financial creditors unanimously rejected NBCC's Terms of Reference for lacking a clear repayment schedule and proposing surplus transfers instead of direct creditor payments?
- XI. Whether the Hon'ble NCLAT erred in approving the NBCC proposal without imposing any accountability or liability on NBCC for the completion of the projects?
- XII. Whether the Hon'ble NCLAT overlooked the adverse impact of NBCC's poor execution track record, including significant delays in other real estate projects like Amrapali Project?

XIII. Whether the Hon'ble NCLAT failed to adjudicate pending objections and applications filed by financial creditors including Appellants before approving NBCC's proposal, thereby violating the principles of natural justice?

3. BRIEF FACTS OF THE CASE:

That the facts leading to file the instant Appeal in brief are as under:

1. That the Applicant No.1/ Bank of Baroda issued a sanction letter dated 12.01.2015 to M/s Supertech Limited sanctioning them a total loan amount of ₹ 75.00 Crores with respect to Project "**ECO-VILLAGE III**" at GH-06, Sector 16 B, Greater Noida, U.P.
2. That the Applicant No.2/ Bank of Maharashtra, sanctioned credit facilities to the tune of Rs. 150 Crores vide Sanction Letter dated 12.05.2015 for part-financing the 25.06.2015 construction of housing project named "*Eco-Village III*".
3. That the M/s Supertech Limited was admitted into insolvency proceedings and an Interim Resolution Professional (IRP) was appointed by the Hon'ble NCLT, Delhi by order dated 25.03.2022 in the matter No. IB 204/2021 titled, '*Union Bank of India vs. Supertech Limited*'.
4. That the Appellants, Bank of Maharashtra and Bank of Baroda, collectively constitute nearly 76% of the total financial debt in Project Eco-Village III. There are three lenders in the said project: the two Appellants and the Union Bank of India, which is Respondent No.1 in the matter. The following table reflects the

dues of the lenders, including both principal and accrued interest amounts:

5.

SL No	Name of the Bank	Principle dues (as on date)	Unapplied interest (as on date)	Total dues(as on date)	Claim filed before IRP	Claim Admitted
1.	Bank of Maharashtra	₹7,68,616,406.41	₹1,118,780,733.00	₹1,887,397,139.41	₹1,276,189,100/-	₹1,208,173,296/-
2.	Union Bank of India	₹40,00,00,324.50	₹38,38,86,366.31	₹78,38,86,690.81	₹61,47,48,299.55	No confirmation from the IRP
3.	Bank of Baroda	₹49,86,43,856.00	₹74,91,20,295.26	₹ 1247764151.26	₹82,18,91,707.00	₹82,14,00,000.00

6. That thereafter an Appeal being Company Appeal (AT) (Insolvency) No. 406 of 2022 was filed before the Hon'ble NCLAT against the CIRP Order and the Hon'ble NCLAT vide order dated 12.04.2022 directed the IRP not to constitute the Committee of Creditors of M/s Supertech Limited.

7. That on 10.06.2022, the Hon'ble NCLAT directed that other projects apart from the Eco Village-II Project shall proceed as ongoing project basis under the overall supervision of the IRP since the promoters of M/s Supertech Limited were ready to extend all cooperation with all its staff and employees to the IRP towards construction of all projects. The Hon'ble NCLAT even emphasized the need for project-wise resolution in CIRP Process for successful

resolution. It was further directed that the CoC be constituted for Eco Village-II Project for resolution of such project.

Further, the Hon'ble NCLAT, in its order, explicitly and significantly emphasized that the pendency of proceedings shall in no way restrict or hinder the Financial Creditors from entering into settlement agreements with the Respondent No.4 herein. The relevant excerpt of the Order is reproduced hereinbelow:

“24.....The pendency of this proceeding shall in no manner hinder the Appellant to approach the Financial Creditors for entering into Settlement with the Financial Creditors. With regard to the disbursement to the Financial Creditors, out of 30% of the amount, we shall issue necessary direction after receiving the status report and receiving the progress of the projects.”

A copy of Order dt.10.06.2022 passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 406 of 2022 is annexed herewith as **Annexure-A1**. (Pages 107 to 127)

8. That, against the order dated 10.06.2022, appeals were preferred before this Hon'ble Court by certain financial creditors, being Civil Appeal No.1925/23 and 5941/22. This Hon'ble Court, *inter alia*, passed an order dated 11.05.2023 observing that it would be detrimental to the Homebuyers if the entire company goes into Insolvency and upheld the order dated 10.06.2022 passed by the Hon'ble NCLAT. The relevant excerpt of the Order dated 11.05.2023 is reproduced hereinbelow:

“10. In the light of the principles aforesaid, in our view, as at present, we should adopt the course which appears to carry lower risk of injustice, even if ultimately in the appeals, this Court may find otherwise or choose any other course. In that regard, the element of balance of convenience shall have its own significance. On one hand is the position that the Appellate Tribunal has adopted a particular course (which it had adopted in another matter too) while observing that the project-wise resolution may be started as a test to find out the success of such resolution. The result of the directions of the impugned order dated 10.06.2022 is that except Eco Village-II project, all other projects of the corporate debtor are to be kept as ongoing projects and the construction of all other projects is to be continued under the supervision of the IRP with the ex-management, its employees and workmen. Infusion of funds by the promoter in different projects is to be treated as interim finance, regarding which total account is to be maintained by IRP. If at the present stage, on the submissions of the appellants, CoC is ordered to be constituted for the corporate debtor as a whole in displacement of the directions of the Appellate

Tribunal, it is likely to affect those ongoing projects and thereby cause immense hardship to the home buyers while throwing every project into a state of uncertainty. On the other hand, as indicated before us, the other projects are being continued by the IRP and efforts are being made for infusion of funds with the active assistance of the ex-management but without creating any additional right in the ex-management. In our view, greater inconvenience is likely to be caused by passing any interim order of constitution of CoC in relation to the corporate debtor as a whole; and may cause irreparable injury to the home buyers. In this view of the matter, we are not inclined to alter the directions in the order impugned as regards the projects other than Eco Village-II.

A copy of Order dt. 11.05.2023 passed by this Hon'ble Court is annexed herewith as **Annexure-A2**. (Pages 128 to 140)

9. That the Respondent No 2/ IRP suggested that a way forward can only be a project-wise resolution for the Corporate Debtor, as each project involves different lenders and creditors. This approach was officially recorded in the Hon'ble NCLAT order dated 12.02.2024, emphasizing a tailored resolution process for each project. The relevant excerpt of the Order dt. 12.02.2024 is reproduce hereinbelow:

“6.....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.”

A copy of Order dt. 12.02.2024 passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 406 of 2022 is annexed herewith as **Annexure-A3**.(Pages 141 to 146)

10. That, thereafter, on 16.03.2024 meeting was scheduled between the IRP and the representatives of the Appellants Banks to discuss regarding the Project-Wise Resolution draft Proposals which was required to be prepared by the IRP. And in compliance with the order dt. 12.02.2024, the IRP submitted the draft project wise resolutions proposal. The Hon'ble NCLAT vide order dt. 22.03.2024 granted a time of three-weeks to all the Stakeholders to provide their inputs on the draft project wise resolutions proposal submitted by the IRP.

11. That on 22.05.2024, the Appellant No.2/ Bank of Baroda received an OTS proposal from the suspended director of Supertech for settlement of dues pertaining to “Doon Square Project”. OTS proposal was accepted by the Appellant No.2 on 09.08.2024. Vide Order dated 16.10.2024, the Hon'ble NCLAT has permitted implementation of agreement between parties to complete the said project. A copy of Order dt. 16.10.2024 passed by the Hon'ble

NCLAT approving the said proposal is annexed herewith as **Annexure-A4.(Pages 147 to 149)**

12. That, an Intervention Application (IA No. 6557/2024) was filed by Respondent No. 3/ NBCC (India) Limited in CA(AT)(Insv) 406 of 2022 before the Hon'ble NCLAT showing its interest to undertake construction of M/s Supertech Limited but as a Project Management Consultant (PMC). It is pertinent to mention that the application filed by Respondent No. 3 has been loosely titled as a 'Proposal on behalf of NBCC (India) Limited,' whereas the said application did not present any substantive proposal but can, at best, only be described as a 'proposal to give a proposal'. A copy of the I.A. No. 6557/2024 filed by the Respondent No.3/ NBCC annexed herewith as **Annexure-A5. (Pages 150 to 195)**

13. That the Respondent No. 3/ NBCC Ltd. filed an Application in CA 5941/2022 titled "Union Bank of India Vs. Ram Kishor Arora Suspended Director of M/s. Supertech Ltd. &Anr." before the Hon'ble Supreme Court of India and on 01.10.2024 held as follows:

"The parties are at liberty to raise all pleas and contentions before the NCLAT. We make no comments or observations in this regard, except stating that the pendency of the present appeals and the present application, on which notice has been issued, will not bar or prohibit the NCLAT from passing appropriate orders. The parties, if aggrieved by any such order, will be entitled to challenge the same in accordance with law."

A copy of Order dt. 01.10.2024 passed by this Hon'ble Court is annexed as **Annexure-A6**. (Pages 196 to 200)

14. That the Hon'ble NCLAT vide its Order dt. 21.10.2024 passed directions specifically directing Respondent No.3 to submit a "*fresh composite proposal project-wise*" and that Respondent No. 3 cannot rely on the earlier proposal given in September 2024. A copy of Order dt. 21.10.2024 passed by the Hon'ble NCLAT is annexed herewith as **Annexure-A7**. (Pages 201 to 207)

15. That on 11.11.2024, NBCC India Limited filed its proposal before this Hon'ble Tribunal for completion of 17 projects of Supertech Limited, wherein tentative timeline for the construction and completion of Eco-Village 3 Project is given as 12 to 36 months along with a note that the actual timeline will be decided upon completion of due-diligence. Further, paragraph 11 of the said proposal submitted by the NBCC categorically states that a project wise proposal or resolution is not feasible as there is surplus only in few projects. The proposal of the NBCC further suggested that the surplus of these few projects would be required to cover the construction costs of the remaining projects without which it would not be feasible to complete all the projects. A Copy of the NBCC's proposal dated 11.11.2024 is annexed herewith as **Annexure-A8**.(Pages 208 to 348)

16. That on 14.11.2024, M/s Supertech Limited submitted a settlement proposal to the Appellants proposing to pay 100% of ledger balance

of towards full and final settlement of the project loan through 10% upfront on approval from this Hon'ble Tribunal, and the remaining 90% in 3 years period along with interest @ MCLR per annum post 90 days from the approval of this Hon'ble Tribunal. Thereafter on 30.11.2024, the Appellants received another proposal with certain modifications in its earlier proposal dated 14.11.2024.

That in the meantime, the Appellant No.2/ Bank of Baroda filed its objections to the proposal of NBCC dated. 11.11.2024. A copy of objections filed by Appellant No.2 via I.A 8396/2024 and objections in I.A. 6557/2024 are annexed herewith as **Annexure-A9**. (Pages 349 to 374) and **Annexure-A10** (Pages 375 to 393)

17. That on 01.12.2024, a Joint Lenders Forum meeting was held in between the Union Bank of India, the Bank of Maharashtra, Punjab & Sindh Bank, Bank of Baroda and IDBI Bank Ltd. In this meeting, all the consortium lenders of M/s Supertech Limited expressed their concerns/objections to the proposal submitted by the NBCC. The primary objections of the lenders qua the proposal of the NBCC are as follows:

- a) The proposal of NBCC is incomplete and lacks clarity;
- b) There is proper repayment schedule for the lenders;
- c) NBCC is infusing surplus money of one of the project into another project when the same can be utilized towards the clearance of the dues of the lenders.

It was further decided that Respondent No.1/Union Bank of India, as the lead bank, would file submissions on behalf of the entire consortium, including the Appellants, to present collective objections against the NBCC proposal before the Hon'ble NCLAT. A copy of the Minutes of the Meeting of the Joint Lenders Forum dated 01.12.2024 is annexed herewith and marked as **Annexure-A11**. (Pages 394 to 397)

15. That the Appellant No.2/Bank of Baroda filed their short submissions containing objections against the NBCC seeking approval of its proposal dated 11.11.2024. A copy of Short Submissions filed by the Appellant No.2/ Bank of Baroda is annexed herewith as **Annexure-A12** (Pages 398 to 402) A copy of Written Submissions filed by Respondent No.1/ Union Bank of India on behalf of consortium of lenders **Annexure-A13** (Pages 403 to 406) The Appellant No.1/Bank of Maharashtra filed an I.A. before the Hon'ble NCLAT containing the objections to the NBCC proposal. A copy of I.A. filed by Appellant No. 1 is annexed herewith as **Annexure-A 14**. (Pages 407 to 434)

18. That the Hon'ble NCLAT passed the Impugned Order 12.12.2024 allowing the proposal dated 11.11.2024 filed by NBCC to take over the 16 projects of M/s Supertech Limited with some modifications on the basis of suggestion rendered by the Respondent No.2/IRP in its process note. True and correct Copy of Process Note is annexed herewith as **Annexure-A15** (Pages 435 to 448)

19. That subsequently, the Appellants received another OTS proposal dated 09.01.2025 from the suspended director of M/s Supertech Limited with regards to taking over the Project “Eco-Village III” with defined repayment terms, clear timelines of two years, defined source of funds, a defined quantum of repayment at 105% of the Ledger Balance and upfront payments of 10%, along with expedited delivery of units to homebuyers within a guaranteed timeframe of 12-36 months. The proposal is currently under consideration by the Lenders including the Appellants. A true copy of the OTS proposal submitted by the suspended director dated 09.01.2025 is annexed herewith as **Annexure-A16** (Pages 449 to 450) The proposal is currently under consideration by the Lenders including the Appellants.

4. That the Appellants have not preferred any other Appeal challenging the order dated ^{12.12.2024} passed by the Hon’ble National Company Law Tribunal Principal Bench, New Delhi(AT) (Insolvency) No. 406 of 2022

5. GROUNDS:

A. VIOLATION OF COMMERCIAL WISDOM OF STAKEHOLDERS:

BECAUSE The Hon'ble NCLAT, despite being a judicial body, has erred in substituting its decision over the commercial wisdom of the stakeholders, including the Appellants i.e., Bank of Maharashtra and Bank of Baroda who have filed their objections in against the proposal submitted by the NBCC, by

approving NBCC's proposal for project completion under a Project Management Consultant (PMC) model, which does not satisfy the repayment obligations of financial creditors in timely manner rather in a vague and arbitrary manner that too would be subject to the consent by the Apex Court Committee and Project-Wise Court Committee.

B. NO CONCERN FOR THE DUES OF THE FINANCIAL CREDITORS:

BECAUSE The Hon'ble NCLAT erred in approving the proposal submitted by the NBCC with a modification that the dues of Financial Creditors shall be paid from the 30% of Project Receivables as per the proposal submitted by the Project Court Committee and shall be subject to the approval of Apex Court Committee. The relevant excerpt of the Impugned Order is produced hereinbelow for the ready reference:

“ 85. We allow the IA 6557/2024 to undertake the 16 Projects as listed in Annexure A (except Doon Square). All necessary steps be undertaken by the NBCC. We dispose of IA 6557/2024, accordingly with following directions:

(5) The purpose of NBCC for distribution of surplus as contained in Paragraph a(x) of TOR is not approved. Repayment of land Authorities, Banks and Financial Institutions shall simultaneously begin as per the date and manner decided by Apex Court Committee. The balance amount in a Project apart from 70% amount which is to be used for construction, may be used for repayment. The payment for land cost can also be debited from 70% amount as per Section 4(2)(D) of RERA Act and as per the decision of the Apex Court Committee. Any proposal for repayment of land Authorities, Banks and Financial Institutions emanating from the Project Court Committee shall require approval of Apex Court Committee for implementation.”

C. UNCERTAINTY IN REPAYMENT TERMS:

BECAUSE the arrangement of repayment is highly unreasonable and unjustifiable as it disregards the interest of the financial creditors including the Appellants whose dues are subordinated to the dues of all other stakeholders. The Hon'ble NCLAT's decision to delegate repayment timelines and quantum entirely to the Apex Court Committee and

Project Wise Committee undermines the secured interests of Financial Creditors. Additionally, this arrangement violates the waterfall mechanism under Section 53 of the IBC, which prioritizes secured financial creditors over other claims. The Hon'ble NCLAT in para 77 held as follows:

“77. We, thus are of the view that repayment of land authorities, financial institutions, Banks has to be commenced from 30% balance amount from receivables and on approval of the Court Committee. For payment to land authorities, the 70% amount deposited in designated account can also be utilised. We, thus are of the view that repayment of land authorities, financial institutions, Banks cannot await till the completion of the Projects nor it can wait to be distributed from surplus after completion of the Project rather said repayment shall simultaneously begin along with the date and manner to be decided by the Apex Court Committee, which we shall be directing for constituting for carrying out the Project.”

D. EXCLUSION OF INTEREST COMPONENT FROM REPAYMENT MECHANISM:

BECAUSE the Hon'ble NCLAT erroneously approved the repayment mechanism suggested by the Respondent No.2/ IRP in Clause B (5) (iii) of its Process Note, which limits repayment to only the principal dues of financial creditors, excluding interest component. The total claims of Appellant No. 1/Bank of Maharashtra amount to ₹120 Crores and Appellant No. 2/Bank of Baroda to ₹82 Crores respectively. This arbitrary exclusion of interest is fundamentally flawed and financially unjust, as it disregards the interest of the Financial Creditors who are rightfully entitled to recover both principal and interest.

The Clause B (5) (iii) of the process note submitted by the Respondent No.2, which was approved by the Hon'ble NCLAT vide Para 80 of the Impugned Order, is extracted herein below for ready reference of this Hon'ble Court as:

**“B. NBCC FOR DIRECTIONS
IMPLEMENTATION TO OF
CONSTRUCTION PROPOSAL AND
MECHANISM FOR REPAYMENT OF
DUES TO STAKEHOLDERS:**

- 5). *With respect to 30 percent of projected cash flows, or such other amount available for allocation after covering all project costs, the same may be allocated in the following order of priority: -*
- i. *Meeting any corporate, legal and all other expenses which may not be allocated specific to the project in order to keep the Corporate Debtor as a going concern.*
 - ii. *Meeting any outstanding CIRP expenses pertaining to the project which is already incurred and not yet paid.*
 - iii. *Meeting the proportionate payment of principal dues of financial creditors, land authorities as well as other creditors of the project admitted as on the insolvency commencement date. (Such repayments may start only after first 6 months of start of construction of the project by NBCC and subject to feasibility and viability of the same, keeping in mind the priority for*

completion of construction of project).”

E. EXISTENCE OF UNCERTAINTY EVEN IN DISCHARGE OF PRINCIPAL DUES:

BECAUSE even with respect to the principal dues, the Impugned Order suffers from significant ambiguity regarding the quantum of repayment to lenders from the 30% of projected cash flows, as specified in the approved repayment mechanism. The Financial creditors, including the Appellants, are placed third in the priority of payments, following corporate & legal expenses and outstanding CIRP expenses, under Clause B (5)(iii) of the Process Note, which was approved by the Hon’ble NCLAT. Also, by subjecting repayments on vague standards of feasibility and viability of construction of the Project by Respondent No.3/ NBCC, without clear timelines or defined quantum, the approved mechanism exposes lenders to indefinite delays and potential non-repayment.

F. ADDITIONAL RISK TO REPAYMENT OF FINANCIAL CREDITORS DUE TO ALLOCATION OF ADDITIONAL PROJECT CASH FLOWS FOR MEETING CONSTRUCTION COST:

BECAUSE the repayment mechanism approved by the Hon'ble NCLAT under the Impugned Order allows 70% of project cash flows to be utilized for construction expenses, including NBCC's fees, selling and marketing costs, and monitoring expenses. However, in the event where this 70% allocation is deemed insufficient, the repayment structure permits the utilization of additional cash flows in priority, subject to approval by the project-wise court committee, to meet construction costs. This provision, by allowing unrestricted access to cash flows beyond the 70% threshold, places the remaining 30% of project receivables—earmarked for repayment to financial creditors, land authorities, and other creditors—in perpetual risk. The relevant direction is included in Clause B (4) of the Process Note submitted by the Respondent No.2/ IRP, which was duly approved by the Hon'ble NCLAT, is as follows:

**“B. NBCC FOR DIRECTIONS
IMPLEMENTATION TO OF
CONSTRUCTION PROPOSAL AND
MECHANISM FOR REPAYMENT OF
DUES TO STAKEHOLDERS:**

4) For the purpose of preparation of cash flows, NBCC may propose utilization of 70%

of project cash flows for the purpose of all expenses that need to be incurred for the purpose of completion of the project including NBCC fee, selling and marketing costs as well as the monitoring costs. In cases where 70% of projected cash flows are insufficient to complete the construction of the project, such additional percentage of cash flows may be allocated in priority which is necessary to ensure meeting of all projected expenses of the project subject to the approval of the project-wise court committee.”

G. WAIVER OF SECURITY INTERESTS VESTED IN FINANCIAL CREDITORS:

BECAUSE the Hon'ble NCLAT erred in directing that upon approval by the Apex Court Committee or Project-Wise Court Committee, Financial Creditors holding specific security interests or charges which includes Appellants must immediately provide No Objection Certificates (NOCs) or release charges on assets or cash flows of the corporate debtor to implement decisions made by the Committees. Such a mandatory waiver of secured interests, without ensuring the adequate repayment for secured Financial Creditors would be prejudicial to the

interests of Appellants and other lenders, also compromises the enforceability of their secured interests. The said direction as approved by the Hon'ble NCLAT is reproduced herein below:

**“C. DIRECTIONS TO VARIOUS
STAKEHOLDERS VIZ. ALLOTTEES,
LENDERS, LAND AUTHORITIES,
PROMOTERS”**

**2) Directions for financial institutions in
respect of the applications mentioned in
schedule A:**

- i. Once the Apex Court Committee has approved any decision with respect to terms of Interim funding or any other matter, the financial institution, who may have specific charge or security interest on any specific asset or cash flow of the corporate debtor, shall, immediately upon request, provide the No Objection Certificate or any other approvals or release of charge etc., which may be required in order to implement such decision of the Apex Court Committee.*

- ii. *Once the Project-wise Court committee has approved any decision with respect to sale of inventory or utilization of cash flows or any other agenda as enumerated above, any specific lender or land owner or land authority or any other stakeholder who may have any charge or security interest in the asset or cash flows of the project shall, immediately upon request, provide the No Objection Certificate or any other approvals or release of charge etc., which may be required to implement the decision of the Project-wise Court Committee.”*

**H. LIMITED ROLE OF FINANCIAL CREDITORS
IN PROJECT-WISE COURT COMMITTEE:**

BECAUSE the Hon'ble NCLAT erred in approving a framework wherein only one (1) nominee from the consortium of financial creditors represents lenders in each Project-Wise Court Committee, without providing any clear guidelines for determining such representation. In the present case, there are three lenders for Eco-Village III, including the two Appellants, Bank of Maharashtra and Bank of Baroda, holding nearly 76% of the total financial

debt, and Union Bank of India, holding the remaining share. Despite this majority holding, the stand among the financial creditors may differ on key issues within the purview of the Project-Wise Court Committee, making unified representation impractical and inequitable. This approach of the Project-Wise Court Committee is not feasible and is also in contrast to the CoC where voting power is distributed in proportion to the claim amount, and decisions are made based on different prescribed voting majorities, ensuring fair representation of different creditor interests.

The next conundrum arises in determining the repayment to financial creditors, which is to be proposed by the Project-Wise Court Committee composed of members with different priorities. Now, for instance, Homebuyers would certainly prioritize project completion to secure possession of their units, while land authorities would focus on recovering their statutory dues, and NBCC would seek additional cash flows for project completion. This inherent conflict of interest further exacerbates the decision-making process, as the repayment strategy may overshadowed by construction-related expenses.

**I. EXCESSIVE CONSTRUCTION COST
PROPOSED BY NBCC:**

BECAUSE the construction cost proposed by NBCC amounts to ₹10,200 crores, which is nearly double the amount proposed by Respondent No. 2/IRP, whose construction cost was estimated at nearly ₹6,400 Crores. The lower estimate by Respondent No. 2/IRP was vetted and approved by AECOM, an independent external agency, under the supervision of Respondent No. 2/IRP. This substantial reduction in costs translates into a larger surplus available for distribution among secured and unsecured creditors, homebuyers, and statutory authorities such as NOIDA, GNIDA, and YEIDA.

J. REJECTION OF NBCC'S ToR BY FINANCIAL CREDITORS IN THE JOINT LENDERS MEETING HELD ON 01.12.2024:

BECAUSE the Hon'ble NCLAT failed to address the concerns of the financial creditors, which were explicitly raised during the Joint Lender Meeting (JLM) held on **01.12.2024**, wherein the lead bank, Union Bank of India, along with Bank of Maharashtra, Bank of Baroda, Punjab & Sindh Bank, and IDBI Bank, unanimously opposed the Terms of Reference (ToR) submitted by NBCC. The same objections and concerns were submitted in Written Submissions filed by the Financial Creditors

including Union Bank of India/Respondent No.1 and Appellant No.2 to I.A. No.6557 of 2024.

Though the Hon'ble NCLAT directed simultaneous repayment of creditors in the impugned order, the repayment mechanism remains vague and arbitrary and uncertain, lacking clear timelines, quantum of repayment, or any safeguards to ensure financial creditors' dues are paid as also highlighted in the aforesaid grounds.

K. DISREGARDING THE PROJECT-WISE

RESOLUTION APPROACH:

BECAUSE the Hon'ble NCLAT erred in failing to adhere to its earlier orders dated **10.06.2022** and **12.01.2024**, wherein it explicitly recognized the necessity of a **project-specific resolution approach** for distinct projects. This approach was deemed essential on account of distinct financial structures, varying stages of construction, and the diverse interests of multiple stakeholders, including financial creditors, homebuyers, and land authorities. However, the Hon'ble NCLAT, in the Impugned Order, departed from its earlier stance and approved a composite resolution plan for all 16 projects instead of adhering to a project-wise resolution framework, thereby compromising the interests of Financial

Creditors including the Appellants who are lead lenders to Eco-Village III project.

The Respondent No. 2/Interim Resolution Professional (IRP), in his Status Report dated 02.05.2024 submitted before the Hon'ble NCLAT, emphasized the need for a project-specific resolution approach, highlighting the distinct stakeholders and unique challenges associated with each project. Both Respondent No. 2/IRP and Respondent No. 4/R.K. Arora (Suspended Board of Director) have diligently worked to secure project-wise proposals from investors and co-developers, resulting in the receipt of multiple Letters of Intent (LoIs) from various interested parties.

L. INFRINGEMENT OF LIBERTY GRANTED TO FINANCIAL CREDITORS VIDE ORDER Dt. 10.06.2022

BECAUSE the Hon'ble NCLAT, in its order dated 10.06.2022, explicitly granted liberty to the Financial Creditors, including the Appellants, to enter into settlement agreements with the Respondent No.4/ Promoter of M/s Supertech Limited during the pendency of the proceedings. This liberty was granted in view of the critical role and autonomy vested Financial Creditors in

exploring and finalizing mutually beneficial resolutions. However, by approving the NBCC proposal in the Impugned Order without adequately considering such other settlement options, the Hon'ble NCLAT has effectively infringed upon this liberty.

M. DEVIATION FROM PROJECT-WISE RESOLUTION BY ALLOWING TRANSFER OF SURPLUS BETWEEN PROJECTS

BECAUSE the Hon'ble NCLAT, in the impugned order, permitted the transfer of surplus funds from one project to another, subject to the decision of the Apex Court Committee, thereby deviating from the project-wise resolution approach previously recognized by the Hon'ble NCLAT as essential for addressing the unique financial and operational structure of each project. Any surplus generated from a project should be allocated toward full repayment of admitted dues, including both principal and interest, rather than being diverted to fund other projects. The relevant portion of the Impugned Order reads:

"80.We are of the view that the Apex Court Committee may be empowered to take a decision for transferring surplus amount from one project to another project after

obtaining necessary details from the concerned project-wise Court Committee. A project-wise account shall be maintained, where all receivables from the concerned project are deposited, and debits can be made only with the approval of the project-wise Court Committee.”

N. BETTER RESOLUTION MECHANISM

ADOPTED FOR DOON SQUARE PROJECT:

BECAUSE the Hon'ble NCLAT, vide its order dated 16.10.2024, directed the completion of the Doon Square project in terms of the Master Agreement signed pursuant to the acceptance of the OTS proposal by Appellant No. 2/Bank of Baroda. The project has since been commissioned by the Co-developer, with Appellant No. 2 already receiving repayments of its dues. This project-specific resolution is more viable, expeditious handover of units to homebuyers, and timely repayments of dues to Authorities, Financial Creditors and other creditors. The project-specific resolution method provides, inter-alia, the following few distinct advantages over the generalized NBCC proposal:

- I. Unlike NBCC's consolidated plan, where repayment depends on proposal emanating from project-wise committee and approval

from Apex Court Committee, project-specific resolutions offer **clear, predetermined repayment schedules** directly tied to infusion of funds from investors and project receivables.

II. The OTS proposal would ensure that surplus funds, however less it maybe, remain exclusively within each project because during due diligence, the key factor such as the construction cost, funds requirement, finance cost, repayment terms, and receivable timelines are predetermined eliminating the need for surplus transfers between projects

III. Project revenues are directly allocated between construction expenses and creditor repayments, streamlining the process without the multi-layered approvals from Project-Wise Committee and Apex Court Committee.

IV. The NBCC proposal's dependency on multiple committee approvals for surplus usage, repayment mechanism and construction prioritization creates potential for extended litigation which would prolong the completion of projects, while the OTS model's certainty reduces contention and administrative complexity because of defined contractual relationship.

V. The NBCC proposal provides estimated timelines for simultaneous project completion, but the process is complicated by potential fund shortages, delays in surplus transfers, and the complexity of managing multiple projects concurrently. In contrast, project-specific resolutions offer shorter completion durations, driven by predetermined infusion of funds from committed investors, ensuring streamlined construction and timely repayments.

O. AVAILABILITY OF MOREVIABLE OTS

PROPOSAL QUA ECO-VILLAGE III:

BECAUSE the Appellants have received OTS proposal dated 09.01.2025 from the suspended director of Supertech Ltd., which offers certainty in repayment terms, clear timelines of two years, defined source of funds, a defined quantum of repayment at 105% of the Ledger Balance and upfront payments of 10%, along with expedited delivery of units to homebuyers within a guaranteed timeframe of 12-36 months. The proposal is currently under consideration by the Lenders including the Appellants.

P. EXCESSIVE FEES CHARGED BY NBCC AS

PMC:

BECAUSE the NBCC proposal includes a Project Management Consultancy (PMC) fee projected at 8% of the total construction cost amounting to nearly ₹800 Crores, an unreasonably high amount that significantly increases the overall project expenses which shall be deducted upfront from the 70% of the total receivables. This excessive fee structure further reduces the surplus available for repayment to land authorities, financial creditors, including the Appellants.

Q. NO ACCOUNTABILITY/ LIABILITY ON BEHALF OF NBCC FOR COMPLETION OF PROJECTS:

BECAUSE the Hon'ble NCLAT accepted NBCC's proposal which stated that NBCC proposed to take over all the Projects of the CD as a PMC, without accepting any liability or being responsible for any obligation associated with the Projects. This concern was also raised by the Homebuyers which has not been addressed anywhere by the Hon'ble NCLAT in its Impugned Order.

R. NCLAT ERRED IN APPROVING NBCC'S PROPOSAL DESPITE THE FINANCIAL CREDITORS OBJECTIONS:

BECAUSE the Hon'ble NCLAT erred in approving the NBCC proposal without considering the consent of the financial creditors, including the Appellants, despite their categorical objections to the Terms of Reference submitted by the NBCC. The approval effectively imposes a contractual arrangement between NBCC and other stakeholders without the agreement of the financial creditors, who bear the highest financial exposure. Though no CoC was constituted in respect of the concerned project, the underlying principle remains that decisions concerning business transactions should be exercised by financial creditors, whose commercial wisdom is paramount. It is well-settled that resolution proceedings are subject to the commercial wisdom of creditors, as courts are not to interfere with business decisions or substitute their judgment for that of creditors. This contravention of established insolvency principles necessitates intervention by this Hon'ble Court.

S. HASTY APPROVAL OF NBCC'S PROPOSAL WITHOUT EXPLORING ALTERNATIVE PROJECT-WISE PROPOSALS:

BECAUSE the Hon'ble NCLAT hastily approved the NBCC proposal without providing the financial creditors, including the Appellants, any reasonable

opportunity to explore other Expressions of Interest (EoIs) or alternative project-specific proposals, despite the availability of more options, for instance the successful implementation of OTS proposal of the Doon Square project. It is submitted the Appellants have received an OTS proposal with regards to Project Eco-Village III from the suspended director of Supertech Ltd., offering certainty in repayment terms, timelines of two years, and repayment at 105% of the Ledger Balance, along with expedited delivery of units to homebuyers.

T. NCLAT OVERLOOKED THE POOR TRACK

RECORD OF NBCC:

BECAUSE the Hon'ble NCLAT overlooked the poor track record of NBCC, which delayed the delivery of over 37,000 flats in the Amrapali project, raising serious concerns about NBCC's capacity to manage the completion of 13,000 flats in the present proposal submitted by NBCC. The approval of the NBCC proposal without addressing these critical issues renders the resolution plan impractical and detrimental to creditor and homebuyers' rights.

U. FAILURE TO DECIDE STAKEHOLDER

OBJECTIONS BEFORE APPROVING NBCC'S

PROPOSAL:

BECAUSE the Hon'ble NCLAT, in the impugned order, prematurely decided I.A. No. 6557 of 2024, filed by NBCC seeking approval of its proposal, without first adjudicating the pending objections raised by key stakeholders. The Hon'ble NCLAT ought to have decided I.A.'s filed by various stakeholders including I.A. Nos filed by Appellants which objected to the terms, repayment structure, and feasibility of NBCC's proposal.

V. UNFETTERED POWERS GRANTED TO APEX COURT COMMITTEE:

BECAUSE the Hon'ble NCLAT, in the Impugned Order, granted unfettered powers to the Apex Court Committee to make critical decisions, including but not limited to repayment and mechanism, surplus transfers between projects, and approval of construction-related expenditures, approval and allocation of overall interim funding which may be required for all the projects. This delegation of absolute authority with the Apex Court Committee compromises and prejudices the interest of stakeholders who are not adequately represented in the composition of the said Committee.

W.BECAUSE it is clear from the aforesaid grounds that the Hon'ble NCLAT has acted beyond its judicial mandate by stepping into the domain of stakeholders

including Financial Creditors and exercised commercial wisdom under the pretext of judicial authority.

X. BECAUSE the Appellants have received an OTS proposal in relation to the Project Eco-Village III which is at an advanced stage of consideration and the terms therein are more favourable and advantageous for both Homebuyers and Appellants which has guaranteed timely completion of the project and definitive repayments of outstanding dues.

Y. BECAUSE the Appellants case is bona fide, and the Appellants is committed to the resolution of the Eco-Village III project, which will ultimately benefit the Homebuyers, ensuring the timely delivery of their units. This has been the primary priority of the NCLAT since the inception of the matter.

6. PRAYER:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:-

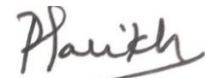
- A. Admit and allow the present Appeal and set aside the Impugned Order dated 12.12.2024 passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.406 of 2022, in so far as it pertains to the resolution of the Project Eco-Village III, wherein the Appellants constitute for nearly 76% of the total Financial Debt;

- B. Permit the Appellants to evaluate and consider the One-Time Settlement (OTS) proposal received from the promoters of M/s Supertech Limited, which offers defined timelines, upfront payments, and better repayment terms as compared to the NBCC proposal;
- C. Direct that a project-specific resolution mechanism be implemented for the Eco-Village III Project, ensuring favorable and better treatment of financial creditors, land authorities, and homebuyers;
- D. Pass such other order(s) as this Hon'ble Court may deem just and proper in Pass any other or further Order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**FOR WHICH ACT OF KINDNESS, THE PETITIONER AS
IN-DUTY BOUND, SHALL EVER PRAY**

DRAWN BY:
*RITWIK PARIKH, RAJAT K. MITTAL
KRITIKA, & PRATEEK SRIVASTAVA ADVOCATES*

FILED BY:



(RITWIK PARIKH)
ADVOCATE FOR THE APPELLANTS

DRAWN ON: 27.01.2025
FILED ON: 27.01.2025

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. ____ OF 2025**

IN THE MATTER OF:

BANK OF MAHARASHTRA & ANR

APPELLANTS

VERSUS

UNION BANK OF INDIA & ORS

RESPONDENTS

AFFIDAVIT

I, Nihar Ranjan Rout S/o Shri Gopinath Rout, aged about 47 years, presently posted as Chief Manager at Delhi Zonal Office, Bank of Maharashtra do hereby solemnly affirm and state as follows:

1. That I am the Appellant No.1 in the present matter and am aware of the facts of the case, am competent and authorized to swear this affidavit.
2. That the contents of accompanying Civil Appeal, from para 1 to .6.. From pages 65-103... Synopsis and List of Dates at Pages B to P , Interlocutory applications (I.As) are true and correct to my knowledge and belief and nothing is concealed there from.



3. That I state that the Annexures are true and correct copies of their respective originals.


DEPONENT

VERIFICATION

Verified that the contents of this affidavit mentioned in para 1 to 3 are true to the best of my knowledge and belief and nothing has been concealed therefrom.

27 JAN 2025

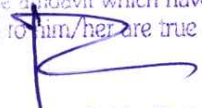
Verified onday of 2025 at

I identified the deponent/executant who has signed in my presence


DEPONENT


NOTARY
R.V SINGH
Advocate
Regn.No.2282
Commission
Expire on
24-10-2027
Area-Delhi
GOVT. OF INDIA

CERTIFIED THAT THE DEPONENT
Shri/Smt/Km. Nihar Ranjan Rout
S/o.W/o.D/o Sh P/o.
Identified by Shri/Smt Ritwik Parikh Adv
has solemnly affirmed before me at Delhi 17
on 27 JAN 2025 that the contents of the affidavit which have been
read over & explained to him/her are true & correct
to his/me knowledge


Notary Public, Delhi

27 JAN 2025