

**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. M.P. Sahay, Ms. Awanitika, Mr. Sachin Kharb, Advocates in I.A. No. 2763 of 2023 in CA (AT) (Ins) No. 406 of 2022.

Mr. Rohit Oberoi, Mr. Raghav Sethi, Ms. Jhanvi Vashisht, Advocates in I.A. No. 4574 of 2022 & I.A. No. 4575 of 2022.

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

Mr. Amish Tandon, Ms. Anushree K., Advocates for IFCI Ltd. in I.A. No. 3281 of 2022.

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

Mr. Rohan Thawani, Mr. Pratul Pratap Singh, Advocates in I.A. No. 3330 & 3331 of 2023.

Mr. Sumesh Dhawan, Mr. Nikhil Mehndiratta, Advocates for Intervenor/ Assets Care and Reconstruction Enterprise Ltd. in I.A. No. 3776 of 2022.

Mr. Nakul Dewan, Sr. Advocate with Mr. Somdutta Bhattacharya, Ms. Niharika Sharma, Ms. Himani Chhabra, Mr. Sathvik Chandrasekar, Advocates for R-2/IRP, along with Mr. Hitesh Goel, IRP in person.

Mr. Siddharth Sunil, Advocate in I.A. No. 2717, 4213 of 2022.

Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Khyati Jain, Advocates

Ms. Vanita Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advocates for L& T Finance Ltd.

Mr. Sourav Roy, Mr. Prabudh Singh, Mr. Kaushal Sharma, Mr. Vasudev Singh, Advocates for Noida Authority in I.A. No. 3206 of 2022.

Mr. Shaurya Krishna, Mr. Prakash Tiwari, Mr. Amit Garg, Advocates in I. A. No. 4713 of 2022.

Ms. Kanika Sachdeva, Mr. Pawan Shree Agrawal, Advocates for Homebuyers.

### **ORDER**

**27.07.2023:** Heard Mr. Nakul Dewan, Learned Senior Counsel appearing for the IRP. Status Report on behalf of Resolution Professional has been submitted in compliance of the order dated 05.07.2023. In the order dated 05.07.2023, we have noticed the submissions that due diligence process had already begun. In the Status Report Learned IRP had submitted that with regard to due diligence steps have taken and the said due diligence shall be completed within 4-5 weeks and Mr. Dewan submits that by 31.08.2023 the process regarding due diligence should be completed and within two weeks the term sheet of the interim finance shall be finalised signed and submitted in the Court.

2. Learned Counsel appearing for the Union Bank and other Learned Counsels for the Financial Creditor submitted that the process for obtaining interim finance is taking a long time by which the interest of the lenders are being suffering and there are no light with regard to dues of the lenders.

3. We are of the view that the process of interim finance has to be given a finalization and as suggested by Learned Counsel for the IRP we fixed 31.08.2023 as a dead line for completing the all process of due diligence and submission of the term sheet of the interim finance within two weeks thereafter in the Court after completing all formalities.

4. Learned Counsel for the IRP has also referred to the I.A. No. 2785 of 2023 which was noticed in our order dated 05.07.2023 in paragraph 9, 10. In the application I.A. No. 2785 of 2023 following prayers have been made:

- a) *Pass appropriate directions upon the Promoters of the Corporate Debtor, being the Appellant herein, directing them to arrange interim finance to the tune of Rs. 50,00,00,000/- (Rupees Fifty Crore only) to complete the safety related activities, including but not limited to obtain requisite Fire NOCs/Occupancy Certificates and other safety related works, as indicated in the Technical Assessment Report of AECOM, as referred to at paragraph 15 hereinabove;*
- b) *Pass appropriate directions upon the Promoters of the Corporate Debtor, being the Appellant herein, directing them to share a comprehensive action plan for the safety related aspects of each of the Non EV-II Projects and assist in completion of the safety related works on each of the Non EV-II Projects;*
- c) *Pass appropriate directions, allowing the Applicant to utilise the funds or part thereof available in the 30% RERA designated accounts of the Non EV-II Projects of the Corporate Debtor, to complete the safety related works at the Non EV-II projects;*
- d) *Pass any other order as this Hon'ble Appellate Tribunal may deem fit and proper.*

5. Learned Counsel submits that in the large number of projects which are part of the Corporate Debtor project provisions of fire safety are lacking either

incomplete or not at all taken care of. It is submitted that in some of the units peoples are also residing without there being any provisions of fire safety. It is further submitted that in some of the project units there are not even a occupancy certificate.

6. Submission of the Learned Counsel for the IRP is that IRP being now at the helm of the affairs it is the responsibility of the IRP to point out to the Court about the imminent danger of the people living in the units without there being in fire safety arrangements.

7. There cannot be two opinion that requirement of fire safety has to be put in place in all projects to ensure the safety of people who are residing in the units or who are yet to come in the units to reside their after obtaining their occupancy certificate and after completion of the other necessary requirements. The question which as on date has been raised by the applicant is the requirement of finance. At present according to the counsel for the IRP there are not sufficient funds available with the Corporate Debtor to make all arrangements regarding fire safety in the projects.

8. Learned Counsel for the IRP submits that the two accounts of the Corporate Debtor i.e. of 70% and 30% are open under the statutory requirement 70% account is being utilised for the construction only and 30% amount is kept reserved for lenders and other purpose. He submits that as on date certain amount is available in 30% account which temporarily be permitted to be utilised with the conditions that amount shall be replenished in the said account. The said equal amount shall be replenished in the account as

soon as possible. With regard to interim finance finalisation has to take place by 31.08.2023 and term sheet to be filed within two weeks thereafter. Learned Counsel for the IRP submits that as on date to begin with the taking steps for the fire safety an amount of Rs. 5 crores may be required.

9. In the facts of the present case permit the IRP to appropriate the amount of Rs. 2.5 crores to begin with all fire safety requirement and the issue with regard to further amount shall be considered on the next date. The amount which is appropriated shall be replenished in the said account as soon as possible. With regard to fire safety expenses IRP shall maintain a account and by an affidavit submit in the court. In I.A. No. 2785 of 2023 further order shall be passed on the next date.

10. We have already directed the Learned Counsel for the IRP to categorise all applications which are pending in this appeal including the applications by Home Buyers, other lenders and intervention application.

11. In the meantime, said categorisation shall be completed and in a chart form it should be submitted to the Court so that other applications may be considered. Those applications of which hard copies have not been filed they are permitted to filed within two weeks.

12. Learned Counsel for the Lenders (L& T Finance) have objected any withdrawal from 30% account.

13. Let these appeals be taken for consideration on **18<sup>th</sup> September, 2023**  
at **2.00 P.M.**

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

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

*sa/nn*