

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 1047 of 2024

[Arising out of the Common Order dated 21.02.2024, passed by the 'Adjudicating Authority' (National Company Law Tribunal, Court-1, Mumbai Bench in IA No. 41 of 2024 in CP(IB) No. 3962/MB-I/2018]

IN THE MATTER OF:

Gokul Aggarwal

Having his address at:
601, Khatau Condominium, JM Mehta Road,
Off-Napean Sea Road, Malabar Hill,
Mumbai-400006

...Appellant

Versus

1. Bank of India

A member of the Committee of Creditors of
the Corporate Debtor Having Office at
Star House, C-5, G Block,
Bandra Kurla Complex.
Mumbai - 400 051

...Respondent No.1

2. Bank of Baroda

A member of the Committee of Creditors
of the Corporate Debtor
Having registered address at:
Baroda Bhavan, RC Dutt Road,
Alkapuri, Baroda - 350 007

...Respondent No.2

3. India Resurgence ARC Pvt Ltd

A member of the Committee of Creditors
of the Corporate Debtor
having its office at:
304, 3rd Floor, Piramal Tower,
Peninsula Corporate Park,
Ganpatrao Kadam Marg,
Lower Parel, Mumbai,
Maharashtra-400013

...Respondent No.3

4. Mr. Rajender Kumar Girdhar

Resolution Professional of the
Corporate Debtor
Having address at: Sumedha Management
Solutions Private Limited,
C-703, Marathon Innova, off. G.K. Marg,
Lower Parel West, Mumbai-400013.

...Respondent No.4

5. **Mr. Debashis Nanda**

Liquidator of the Corporate Debtor
Having address at Flat No CS-14.
C-Floor, Ansal Plaza, Vaishali,
Ghaziabad, Uttar Pradesh, 201010

...Respondent No.5

Present:

For Appellant : Mr. Gaurav Mitra, Mr. J. Rajesh, Adv.

For Respondent : Mr. Sumant Batra, Mr. Sarthak Bhandari and Ms. Riya Kaur Arora, Advocates for Liquidator

Mr. Nikhil Thakur, Mr. Akhil Rana, Mr. Ashish V.,
Advocates for R-2

Mr. Brijesh Kumar Tamber, Mr. Prateek Kushwaha
Advocates for R-1

Mr. Krishnendu Datta, Sr. Adv., Mr. Akshay Puri
and Mr. Harsh Gurbani, Advocates for R-3

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

The captioned Appeal is filed by the Appellant under Section 61 of the Insolvency and Bankruptcy Code, 2016 impugning the order dated 21.02.2024 passed by the Hon'ble National Company Law Tribunal, Mumbai ("Hon'ble Adjudicating Authority") allowing IA No.2471 of 2021 filed by Respondent No.4- the Resolution Professional of the Corporate Debtor and IA No. 924 of 2021 preferred by Respondent No.1- Bank of India, and further dismissing an IA bearing No.41/2024 preferred by the Appellant seeking that the aforesaid Applications preferred by the Respondent Nos. 1 and 4 be stayed.

Brief facts of the case

2. Company Petition (IB) No. 3962/2018 was filed by Bank of Baroda- Respondent No. 2 against the Corporate Debtor-Chamber Constructions

Private Limited under Section 7 of the Code. The CIRP order against the Corporate Debtor was admitted on 16.07.2019.

3. It is brought to our notice that RNA Corp is the holding Company-principal borrower and is also the corporate guarantor of the Corporate Debtor-Chamber Constructions Private Limited.

4. The claim of R1-Bank of India filed [Rs. 81,58,50,645.75/-] in the CIRP of the Corporate Debtor for corporate guarantee furnished by the Corporate Debtor for the loan advanced to one RNA Corp Pvt. Ltd. (RNA Corp) was admitted by R-4-RP. The R-4-RP preferred an application being IA No. 2471 of 2020 on 19.09.2020 before the Hon'ble NCLT seeking initiation of Liquidation of the Corporate Debtor. Bank of India – Respondent No.1 filed a Company Petition (IB) No. 909/2019 under Section 7 of the Code against the principal borrower namely RNA Corp for the same claim as was against the Corporate Debtor. The principal borrower – RNA Corp, the corporate guarantor was also admitted into CIRP vide dated 26.11.2019 under Section 7 of the Code.

5. Also to be noted that Respondent Nos. 2 and 3 are the other financial creditors of the Corporate Debtor such that Respondent Nos. 1, 2, and 3 constitute 68.79%, 25.02%, and 6.19% of the committee of creditors.

6. The Applicant Mr. Gokul Aggarwal is one of the promoters and member of the Suspended Board of Director of principal borrower – RNA Corp and filed an appeal before this Hon'ble Tribunal vide CA (AT)(Ins.) No. 1504/2019 against the order of admission against the principal borrower – RNA Corp.

This Tribunal had dismissed the appeal on 07.02.2020. The applicant preferred a Review Application No. 15/2020 before this Tribunal, and that was also dismissed on 07.12.2020.

7. The Appellant had also filed a Civil Appeal No. 827-828/2021 before the Hon'ble Supreme Court challenging the two orders dated 07.02.2020 and 07.12.2020 passed by this Tribunal on the grounds that Respondent No.1 had already filed the claim for the same debt in the CIRP of the Corporate Debtor and therefore the CIRP of RNA Corp for that very same debt was not maintainable. The Hon'ble Supreme Court had taken cognizance of the said contention and accordingly passed the order dated 12.04.2021 declaring the status quo thereby staying the CIRP of RNA Corp. The relevant extracts of the order of Hon'ble Supreme Court is as follows:

“Issue notice.
Counter affidavit, if any, be filed in the meanwhile.
In the meanwhile, status quo, as it exists today, shall be maintained by the parties.
Tag along with C.A. No.878/2019.
List on 01.07.2021.”

Thus, the Appellant filed an application being IA No. 41/2024 seeking that IA Nos. 2471/2020 and 924/2021 preferred by Respondent No. 4 – RP and Respondent No. 1 – Bank of India be kept in abeyance during the pendency of the applications before the Hon'ble Supreme Court. These applications were listed before NCLT on 04.01.2024. Appellant claims that on account of personal difficulty, the counsel for the appellant could not remain present. However, the NCLT reserved all the applications for orders and passed the impugned orders on these applications on 21.02.2024. The orders in various applications are as noted below in a summary form:

I.A. No.	Filed By	Particulars of the Application	Allowed/ Rejected
2471/ 2020	Respondent No. 4	An application under Section 33 of the Code, seeking for an order of liquidation in respect of the Corporate Debtor.	Allowed
924 / 2021	Respondent No.1	An Application proposing name of the Liquidator.	Allowed
1296/ 2021	Appellant /Applicants	An application by the members of the suspended board seeking extension of time for the consideration of their OTS proposal by the CoC.	Rejected
95/2022	Appellant/ Suspended Board of CD	For seeking to convene a CoC meeting for facilitation of the settlement process between the Applicants and the Financial Creditors.	Rejected
4668/ 2023	Appellant/ Suspended Board of CD	Seeking rejection of claim of Respondent No.1 (Bank of India) on the ground of being barred by limitation.	Rejected
41/2024	Anubhav Aggarwal- Suspended Board of CD	Seeking to keep the I.A No. 2471 of 2020 (Liquidation) in abeyance till the adjudication and disposal of the interim application(s) filed in the Civil Appeal No. 827-828 of 2021.	Rejected

8. We observe that the Appellant has filed an Appeal against the order in IA No. 2471/2020 filed by Respondent No. 4 – RP of the Corporate Debtor and also filed an appeal against I.A. No. 924/2021 preferred by Respondent No.1 – Bank of India and also dismissal against IA No.41/2024.

9. The matter was heard by this Tribunal on various dates. Some of the important proceedings are noted herein as under:

“28.05.2024: Learned Counsel for the Appellant submits that two Financial Creditors have already expressed their opinion to accept the Settlement given by the Appellant and in fact, mail was sent by the Bank of Baroda that steps be taken for CoC's consideration under 12A. It is submitted that the Appellant has offered the entire principal amount which was claimed by the Bank and now the impugned order has been passed directing liquidation of the corporate debtor.

2. Let 'Notice' be issued to the Respondents through 'Speed Post'. Let the requisites together with process fee be filed within three days from today.

The Appellant is required to provide the e-mail address of the Respondents and in that mode also, the service can be effected. The Appellant is also required to furnish the Mobile No. of the Respondents to the 'Office of the Registry'.

3. Let reply be filed within three weeks. Rejoinder, if any, be filed within two weeks thereafter.

4. List the appeal on 09.07.2024.

In the meantime, in pursuance of the impugned order, liquidator shall not issue any auction notice.”

10. Thereafter, the matter was heard on 09.07.2024, 22.08.2024, 15.10.2024, 09.12.2024, 20.12.2024, 28.01.2025, 21.01.2025, 11.03.2025, 20.03.2025, 04.04.2025, 19.05.2025, 27.05.2025, 28.07.2025 and on 28.08.2025

11. On 04.09.2025, the submissions of all the parties were heard in detail and detailed order was passed which is noted as below:

“04.09.2025: - On 21.2.2024, the Order of liquidation was passed by the Adjudicating Authority vis-à-vis the affairs of M/s. Chamber Construction Pvt. Ltd., the Corporate Debtor. This Order of liquidation was challenged by the Promoter Directors of the CD in CA 1047 of 2024.

2. Be that as it may, the Financial Creditor namely, M/s. Omkara Assets Reconstruction Pvt. Ltd., moved the Adjudicating Authority seeking a direction to the erstwhile Directors of the CD to handover possession of the secured assets to it through the liquidator. This was ordered but with a clarification. The learned Adjudicating Authority had directed the erstwhile CD to handover the possession to the liquidator, etc. but injuncted the financial creditor from selling the same. This has now given rise to two

Appeals. The financial creditor has preferred CA 2118 of 2024 challenging that part of the Order of the Adjudicating Authority restraining him from alienating the secured assets, whereas the promoter directors have filed CA 1861 of 2024 challenging the Order directing delivery of the secured assets to the liquidator.

3. The learned Counsel for the appellant in CA 2118 of 2024 submitted on instructions that the financial creditor would work out its remedies in CA 1047 of 2024 and CA 1861 of 2024. The learned Counsel is permitted to withdraw CA 2118 of 2024.

4. So far as CA 1047 of 2024 is concerned, the Counsel for the appellant (the promoters of the CD) submitted that the CD is a subsidiary of certain RNA Corp. which is a 100% holding company. The holding company indeed was the principal borrower and the CD, as its subsidiary, only offered corporate guarantee to the principal borrower.

5. Be that as it may, the financial creditor initiated CIRP proceedings both against the principal borrower as well as the corporate guarantor simultaneously. So far as the CIRP vis-à-vis the principal borrower is concerned, it has been admitted by the Adjudicating Authority, and that the challenge to it is now pending before the Hon'ble Supreme Court. The learned Counsel added that the issue before the Hon'ble Supreme Court is, whether the same financial creditor can initiate two parallel proceedings against the principal borrower and the corporate guarantor simultaneously. He added that the Hon'ble Supreme Court has passed an Order of status quo vis-à-vis the principal borrower and the matter is now in part-heard stage.

6. The learned Counsel for the liquidator took this Tribunal to the Order passed on 28.5.2024 wherein this Tribunal has passed the following Order:

"Company Appeal (AT) (Insolvency) No. 1047 of 2024 :-

Learned Counsel for the Appellant submits that two Financial Creditors have already expressed their opinion to accept the Settlement given by the Appellant and in fact, mail was sent by the Bank of Baroda that steps be taken for CoC's consideration under 12A. It is submitted that the Appellant has offered the entire principal amount which was claimed by the Bank and now the impugned order has been passed directing liquidation of the corporate debtor.

2. *Let 'Notice' be issued to the Respondents through 'Speed Post'. Let the requisites together with process fee be filed within three days from today. The Appellant is required to provide the e-mail address of the Respondents and in that mode also, the service can be effected. The Appellant is also required to furnish the Mobile No. of the Respondents to the 'Office of the Registry'."*

This Order came to be passed not only on the ground of pursuing parallel CIRPs but on the basis of a statement made on behalf of the promoters of the CD that they are attempting to resolve the matter through Section 12A route, and only acting on this statement, this Tribunal had ordered Notice. However, subsequent to this Order, on 29.08.2024, this Tribunal had passed an Order in Asha Chopra and Ors. vs Hind Motors India Ltd. and others [Company Appeal (AT) (Ins) No.1425 to 1428 of 2024] held as below:

"14. Section 12A was inserted in IBC with effect from 06.06.2018, ie., much subsequent to the above Judgment.

15. Statutory Scheme as delineated by 12A, Section 33 and Regulation 2B of the Liquidation Regulation, during Liquidation period, an Application under Section 12A is not permissible."

When the law has been subsequently settled by this Tribunal that Section 12A benefit is not available in liquidation proceedings, necessarily the foundation for issuing the very notice in this Appeal goes. However, he concurred with the Counsel for the appellant vis-

à-vis the issue involved, the matter is now pending before the Hon'ble Supreme Court and that it is in part-heard stage.

7. Turning to CA 1861 of 2024, the Counsel for the first respondent/financial creditor submitted that the erstwhile Directors of the CD have only challenged the Order directing the delivery of property by them to the liquidator to be ultimately handed over to the financial creditor. So far as this portion of the Order is concerned, what the financial creditor seeks is not delivery of all the properties of the CD to the liquidator but only secured assets of the CD. So far as the security assets is concerned, it is protected and the financial creditor is at liberty to even resort to SARFAESI route for realising at least part of its debt dues. And this option indeed has been exercised by the financial creditor under Section 52 of the IBC when it moved the Adjudicating Authority with an application in which the Order under challenge was passed. Explaining the same, the learned Counsel for the first respondent submitted that in the eventuality of the Hon'ble Supreme Court accepting the contentions of the appellant herein, then only the liquidation process may come to end but that will not relieve the security interest which this respondent has over the assets in question. And, if the order of liquidation is eventually sustained, then the first respondent has already exercised its right under Section 52 of IBC. Either way, the security interest of the creditor will remain untouched and protected, irrespective of the outcome of the Civil Appeal pending adjudication by the Hon'ble Supreme Court.

8. In CA 1861 of 2024, the learned Counsel for the respondent submitted the reason why CA 2118 of 2024 was filed was owing to the following direction given in the impugned Order of the Adjudicating Authority:

"However, we note that the Hon'ble NCLAT vide order dated 28.05.2024 has restrained the Liquidator from proceeding with

the auction of the property of the Corporate Debtor so as to provide an opportunity to Erstwhile Management to negotiate a settlement with other secured Financial Creditors and file an application under Section 12A for withdrawal of the CIRP. In view of this we consider it appropriate to restrain the Applicant herein as well as to proceed with auction of the property till such time the restraint order passed in Company Appeal (AT) (Insolvency) no.1047 of 2024 remains in force. During this period, the Erstwhile Management shall be at liberty to engage Applicant in revival of OTS so as to forward their intent for withdrawal of CIRP under Section 12A of the Code as permitted by Hon'ble NCLAT."

9. The Order of the NCLAT dated 28th May, 2024 is the Order passed in CA 1047 of 2024. In CA 1861 of 2024, second respondent/liquidator has already indicated that he would not be filing its Reply whereas Counsel for the first respondent/financial creditor has already filed its Reply. The appellant is required to file its Rejoinder, if any, to the Reply of Respondent No.1 on or before 16th September, 2025.

List on 19th September, 2025.

Interim Order to continue."

12. Thereafter on 19.09.2025, it was ordered that CA (AT)Ins) No. 2118/2024 is dismissed as withdrawn, which could not be recorded in the order dated 04.09.2025. And it was ordered that the arguments will be continued as the present proceedings are not likely to be affected by the decision of the Hon'ble Supreme Court on the issue indicated by the Appellant.

13. On 19.11.2025, the following order were passed:

“19.11.2025: Pleadings are complete. Appellants have also been heard. However, further hearing was halted essentially because of a certain issue which according to the appellant has some bearing on the outcome of this appeal which is now pending adjudication before the Hon'ble Supreme Court. These fact has already been captured in the earlier order of this Tribunal.

The learned counsel for the respondent again underscore the fact that the issue was whether the CIRP against the CD and the Corporate Guarantor can simultaneously be pursuant and he reiterated that the CIRP proceedings against both the Corporate Debtor as well as the Corporate Guarantor was initiated by two different Financial Creditors and not by the sole Financial Guarantor. He also submitted that because of the Interim Order passed it could not be made in this appeal.

This Tribunal finds that the arguments can still be heard and concluded till such time given as this Tribunal awaits the order of the Hon'ble Supreme Court in the matter which the appellant has referred to.

Learned counsel for the appellant however submitted that the cause of the order of the status quo passed by the Hon'ble Supreme Court it may not be appropriate that the Tribunal to proceed further. This Tribunal therefore considers his appropriate to understand the scope of the order of status quo and however it be tenable that this Tribunal to go ahead with the hearing of the matter after all the conclusion of the hearing and pronouncing the judgment pursuant to the same are two different cases.

Learned counsel for the liquidator seeks permission to submit hard copy of the notes. List the matter under the caption (hearing with interim orders)'. List on 10.12.2025.”

14. And on 10.12.2025, the following order were passed:

“10.12.2025: This matter is repeatedly posted before this Tribunal and it is being adjourned because an issue whether CIRP proceeding can be simultaneously commenced both against the Corporate Debtor and the Corporate Guarantor is pending adjudication by the Hon'ble Supreme Court.

2. However, in the order dated 19.11.2025, it was clarified by the respondents that CIRP against the CD. Corporate Debtor initiated not by the same financial creditor by two different financial creditors, whereas the issue before the Hon'ble Supreme Court relates to initiation of these two proceedings by the same financial creditor. Learned counsel for the appellant however has a difference of views about the same.

3. This Tribunal now proposes to continue the hearing of this matter since hearing these appeals can still be done even as this Tribunal waits for the order of Supreme Court of India. Therefore, the argument in this case will be resumed by the next posting.

4. Learned Counsel for Omkara Assets Reconstruction Pvt. Ltd. submits that by virtue of the interim order passed by this Tribunal the entire liquidation process has come to a halt. Indeed, this order has come to be passed when the appellant cited the pendency of proposal for settlement it is captured in the order dated 28.05.2024:

"Learned Counsel for the Appellant submits that two Financial Creditors have already expressed their opinion to accept the Settlement given by the Appellant and in fact, mail was sent by the Bank of Baroda that steps be taken for CoC's consideration under 12A. It is submitted that the Appellant has offered the entire principal amount which was claimed by the Bank and now the impugned order has been passed directing liquidation of the corporate debtor.

2. Let 'Notice' be issued to the Respondents through 'Speed Post'. Let the requisites together with process fee be filed within three days from today. The Appellant is required to provide the e-mail address of the Respondents and in that mode also, the service can be effected. The Appellant is also required to furnish the Mobile No. of the Respondents to the 'Office of the Registry'."

5. Subsequently on 01.10.2024, Tribunal has also directed restrained dispossession of the appellant of the possession of a certain secured asset of the CD which the adjudicating authority had directed to be handed over to the liquidator to be rooted to the financial creditor. The learned counsel submitted that this is a secured asset and this respondent has not surrendered its secured interest in the liquidation process, and want to proceed against it outside the purview of IBC. The order staying the handing over the possession has now impacted the right of the secured CD to proceed against it outside the purview of the IBC.

6. In the meantime, on 24.08.2024 this Tribunal has held in CA No. 1425-1428 of 2024/2025 that section 12 A IBC will not be applicable to the liquidation process.

7. This Tribunal realises the underlying urgency in proceeding with the matter. Even therefore, we unscored that even as we wait for the judgment of the Hon'ble Supreme Court of India, we have to proceed with the hearing. So far as tweaking with the interim orders as required by M/s Omkara is concerned this will be considered if so required in the neat posting.

List the matter on 13th January, 2026 at 2:00P.M."

15. We observe that the Appellant here is not even the actual applicant in IA No. 41 of 2024, but a mere party in the main CP (IB) No 3962 of 2018. The adjudicating authority, while considering IA No 41 of 2024 concluded that the

application did not disclose grounds which would justify the directions sought, and consequently dismissed the application. The relevant order is extracted as below:

“21. Now coming to IA 41/2024 as stated in preceding para, Para 29 of said application does not refer to any application. In so far as order passed by Hon'ble Supreme Court in the matter pertaining to Principal Borrower is concerned, we find that the said Order does not bar proceeding further in the present matter. Nonetheless, even if this Tribunal proceeds further to decide the Liquidation application, such decision would not result into any recovery at this juncture. The issue before the Hon'ble Supreme Court in the case filed by Principal Borrower is whether a financial creditor can claim amounts simultaneously from Principal Borrower and the Guarantor. Having held that the proceeding further in this matter are not barred by the Hon'ble Supreme Court's order in the case of RNA Corp, we do not find any reason not to allow the Insolvency Resolution process to move forward in case of guarantor. Accordingly, we dismiss IA 41/2024 also.”

16. We also note that the applicant was himself not present while the IA No 41 of 2024 was being adjudicated. From a plain reading of Rule 48 of NCLT Rules¹, we notice that in case of non-appearance of the applicant, the

¹ 48. Consequence of non-appearance of applicant. -

(1) Where on the date fixed for hearing of the petition or application or on any other date to which such hearing may be adjourned, the applicant does not appear when the petition or the application is called for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit.

(2) Where the petition or application has been dismissed for default and the applicant files an application within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his nonappearance when the petition or the application was called for hearing, the Tribunal shall make an order restoring the same: Provided that where the case was disposed of on merits the decision shall not be re-opened.

Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit. We do not find that the adjudicating authority has violated any law or any other provisions of law; and by this Appeal the appellant is rather delaying the process of CIRP. We thereafter don't find any infirmity in rejection of IA No. 41 of 2024.

17. Our attention was also brought on the fact that though the appellant has emphasized on the Supreme Court Appeal No. 827-828 of 2021, wherein the aggrieved party has been granted a status quo order, yet the said order is different and does not pertain to this particular matter, which is in front of this Appellate Tribunal. We are concerned with the matter of the Principal Borrower to whom the Term loan was advanced namely M/s. RNA Corp Pvt. Ltd. It is also brought to our notice that even if it is considered, the interim relief has been lifted and final order as passed by the Hon'ble Supreme Court states "*Civil Appeal Nos. 827-828 of 2021, 4018 of 2023 and 7231 of 2024, however, stand dismissed*" on 26.02.2026.

18. The matter was taken up by us for hearing on 09.03.2026 at 2:00 PM, basis a mutual consent date. During the hearing, it was brought to our notice that Hon'ble Supreme Court has delivered its judgement in ***ICICI Bank Ltd. v. Era Infrastructure (India) Ltd.; 2026 SCC Online SC 314 on 26.02.2026***, and has not barred holding simultaneous CIRP proceedings against both principal debtor and corporate guarantor and such proceedings are maintainable under the existing provisions of the law. Thus, proceedings against both the principal borrower and also the Corporate Guarantor in this case can be proceeded against simultaneously. And therefore, the substratum

on which appeal was being adjourned, no longer exists. The Appellant vehemently argues that Bank of India, which is Respondent No.1 is in the process of assigning it to some one, and for that reason this matter may be taken up after some time. The counsel on behalf of Bank of India strongly opposed the suggestion.

19. Now we find that since the main issue has been settled by Hon'ble Supreme Court, we may go ahead to decide the present Appeal. We find that on 28.05.2024 based on the statement made on behalf of the Appellant, that a settlement was being explored between the Appellants and the two Financial Creditors and the steps are being explored for consideration of Section 12A of the Code, this Tribunal had directed that no auction be conducted by the Liquidator.

20. However, we find that Section 12A of the Code applies only during the CIR proceedings and not in liquidation proceedings. This matter has been settled in NCLAT **Asha Chopra and Ors. vs Hind Motors India Ltd. & Ors. Company Appeal (AT) (Insolvency) No. 1425-1428 of 2024 & I.A. No. 5180-5183 of 2024** wherein it was held that withdrawal under Section 12A is legally impermissible during liquidation, and that the only available mechanism for settlement post-liquidation is a scheme under Section 230 of the Companies Act, 2013, as contemplated by Regulation 2B of the Liquidation Regulations. In the above judgement it was very clearly noted that *"in view of the clear statutory scheme as delineated by 12A, section 33 of the Code and Regulation 2B of the Liquidation Regulation, we are of the view that during the liquidation period an application under section 12A is not*

permissible." Hence, the order of liquidation calls for no interference, and if the promoters propose to settle, they may only do so through the statutory Section 230 route of the Company's Act, 2013.

21. We also observe that in the 7th meeting of the Committee of Creditors ("CoC") held on 31.08.2020, the CoC had unanimously resolved to liquidate the Corporate Debtor. This decision was taken as (i) no resolution plans had been received, (ii) none of the prospective resolution applicants sought extension of the timeline for submission of plans. The Appellants were present in the meeting and at no point did they indicate any settlement proposal. Pursuant to the unanimous decision of the CoC, the RP filed IA No. 2471/2020 seeking commencement of liquidation in terms of Section 33(2) of the IBC.

22. The Ld. Adjudicating Authority granted the Appellants repeated opportunities to settle the matter with the creditors. However, on 12.02.2024, the RP categorically informed the Ld. Adjudicating Authority that *"no settlement has taken place out of Court, thus they have instructions to proceed further in the matter."* This submission has never been challenged by the Appellants. As no settlement materialized despite nearly four years of opportunity, and in light of the CoC's unanimous commercial decision, the Ld. Adjudicating Authority correctly ordered liquidation under Section 33(2) vide order dated 21.02.2025.

Order

23. In the facts and circumstances of the case, we are satisfied that the Adjudicating Authority was right in dismissing the IAs and allowing the

liquidation proceeding to go on. Thus, we do not find any infirmity in the orders of the Adjudicating Authority. Accordingly, the Corporate Debtor – Chamber Constructions Private Limited shall continue to be liquidated. Accordingly, all the related IAs are dismissed and the liquidator is allowed to proceed further to take action in the liquidation proceedings. No orders as to costs.

[Justice N Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

New Delhi.
May 11, 2026.

pawan