

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 966 of 2026

IN THE MATTER OF:

Ramesh Sumermal Shah

...Appellant(s)

Versus

Avenue 54 Welfare Association & Anr.

...Respondent(s)

Present:

For Appellant(s) : Mr. Gaurav Mitra, Ms. Neeha Nagpal, Mr. Ajatshatru Singh Rawat, Mr. Ishit Patel, Ms. Lavanya and Ms. Aishwarya Modi, Advocates.

For Respondent(s) : Mr. Abhijeet Sinha, Sr. Advocate with Ms. Nitya Shah, Mr. Kinnar Shah, Mr. Rhythm Buaria, Ms. Aditi Bharwava, Ms. Heena Kochar, Advocates for R1.

Mr. Rakesh Gupta, Advocate for IRP.

O R D E R
(Hybrid Mode)

29.05.2026 Heard Ld. Counsel appearing for the Appellant and Ld.

Counsel appearing for the Respondent.

2. This Appeal has been filed against the order dated 15.05.2026 whereby Section 7 application filed by the Avenue 54 Welfare Association has been admitted.

3. The matter had earlier come before this Tribunal through two Appeals filed by the Promoters of the Corporate Debtor, being CA(AT)(Ins.) No. 1572 of 2025 and CA(AT)(Ins.) No. 1573 of 2025, which were decided by this Tribunal vide order dated 26.11.2025. The orders impugned in the said Appeals were those by which the applications filed by the Appellant seeking dismissal of CP(IB) No. 284 of 2024 had been dismissed. This Tribunal upheld the said order of the Adjudicating Authority. However, it observed that the Avenue 54

Welfare Association was permitted to file individual affidavits of the Homebuyers stating that they had individually authorized the filing of the application in the present company petition. In Para-1 of the Judgment nature of the impugned order has been noticed, which is as follows:

“These two appeals have been filed, challenging the common order dated 12.09.2025 passed by the adjudicating authority (National Company Law Tribunal, Court – V, Mumbai Bench) in I.A. No.5195/2024 & I.A. No.6034/2024 filed in C.P. (IB) No.284/MB/2024. By the impugned order, the above applications filed by the appellants, the corporate debtors, praying for dismissal of the C.P. IB 284/MB/2024 filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as the ‘Code’ or the ‘IBC’), by the Avenue 54 Welfare Association have been dismissed by the adjudicating authority, aggrieved by which order, these appeals have been filed.”

4. The Appeals were disposed of by the direction issued in Para 24, which is as follows:

“24. In view of the foregoing discussions, we dispose of the appeal in following manner:
i. The order dated 12.09.2025 passed in I.A.5195/2024 and I.A.6034/2024 is not interfered with for the reasons as indicated above.
ii. The respondent Avenue 54 Welfare Association is permitted to file “individual affidavits of the homebuyers stating their identity as also the fact that they individually have authorised the applicants in the present company petition” within a period of 7 days from today.
The adjudicating authority, after receipt of the above affidavits may proceed to hear the Section 7 application in accordance with law.
Both the appeals are disposed of accordingly.”

5. Subsequent to order of this Tribunal, affidavits were filed by the individual homebuyers, and the Adjudicating Authority heard the parties and by impugned order dated 15.05.2026 admitted Section 7 application. One of the issues was framed by the Adjudicating Authority with regard to non-compliance concerning the filing of the additional affidavits as issue no. 11. In Paras 7.28 to 7.31, the said issue has been considered, and the Adjudicating Authority was satisfied that there was compliance by way of filing individual affidavits as directed by the NCLAT in its order dated 26.11.2025.

6. Shri Gaurav Mitra, Ld. Counsel for the Appellant challenging the order, submits that even as per the own showing of the documents, which were filed by the Respondent No.1, there were certain discrepancies with regard to the affidavits of 9 unitholders. He submits that there was disparity in the names, including the disparity of the units allotted. Ld. Counsel for the Appellant has referred to the table which was attached with Written Submissions filed by the Corporate Debtor No.2 (Sumer Radius Realty Pvt. Ltd.).

7. Ld. Counsel for the Respondent refuting the submissions, submits that out of the total 152 sold units, 98 flat buyers filed affidavits and have authorized Avenue 54 Welfare Association & Anr. It is submitted that even if there was certain discrepancies in 9 affidavits, which in no manner affect the maintainability of the application.

8. Ld. Counsel for the Appellant submitted that the order of the NCLAT was challenged before the Hon'ble Supreme Court, where liberty was granted to raise all objections.

9. We have heard the Ld. Counsel for the parties and perused the record.

10. Earlier, in the order of this Tribunal, objection regarding authorization by homebuyers was taken, on account of which this Tribunal permitted affidavits to be filed. The issue was framed by the Adjudicating Authority as issue no. 11 which has been answered in favour of homebuyers. The Financial Creditor pointing out discrepancies with regard to 9 affidavits, however, it does not have any affect on the maintainability of the application filed by the Respondent under Section 7. 98 out of 152 sold units have filed affidavits. On the ground of some discrepancies in 9 affidavits, we do not find any ground to interfere with the order by which the Adjudicating Authority has found debt and default and initiated the CIRP proceedings.

11. Ld. Counsel for the Appellant submitted that even if the CIRP has commenced, the promoters shall make efforts to approach the allottees.

12. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Indevar Pandey]
Member (Technical)**

Abhishek/Manu