NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No.777 of 2026

(Arising out of Order dated 17.03.2026 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench (Court-II), Chandigarh in IA(IBC)/2486(CH)/2024 in CP(IB)No.180/Chd/Pb/2022)

IN THE MATTER OF:

Tru Prime Pvt. Ltd. ...Appellant

Versus

Navneet Gupta, Resolution Professional of
Majestic Hotels Ltd & Ors. ...Respondents

Present:

For Appellant	**:**	**Mr. Pulkit Goyal and Ramneek K. Mann, Advocates for the Appellant.**
For Respondents	**:**	**Mr. Krishnendu Datta, Sr. Advocate with Mr. Abhishek Anand, Mr. Siddhant Kant, Mr. Saurav Panda, Adv. Moulshree Shukla, Ms. Gayathri Balasubramaniam and Mr. Yash Tandon, Advocates for Respondent No.1/ RP with Mr. Navneet Gupta, RP.** **Ms. Ridhima Mehrotra, Advocate for CoC.**

J U D G M E N T

ASHOK BHUSHAN, J.

This Appeal has been filed challenging order dated 17.03.2026 passed by National Company Law Tribunal, Chandigarh Bench (Court-II), Chandigarh in IA(IBC)/2486(CH)/2024 in CP(IB)No.180/Chd.)Pb/2022. By the impugned order, the application filed by the Resolution Professional ("**RP**") being IA(IBC)/2486(CH)/2024 seeking vacation of premises from the Appellant has been allowed and direction has been issued to the Appellant to vacate the salon in 2nd floor, 12-13 shops in 3rd

floor, the five rooms on the 8th floor of the hotel. Aggrieved by the said order, this Appeal has been filed.

2. Brief facts of the case necessary to be noticed for deciding the Appeal are:

(i) The Corporate Debtor ("**CD**") is running a five-star hotel namely – Hotel Majestic Park Plaza, situated at Ludhiana. The CD had obtained financial facilities from Tourism Finance Corporation of India.

(ii) Tourism Finance Corporation of India filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "**IBC**") being CP(IB)No.180/Chd/Pb/2022 against the CD claiming a default of Rs.14,35,57,30,109/-. The Adjudicating Authority admitted Section 7 application on 03.07.2024 and Navneet Gupta (Respondent No.1) was appointed as Interim Resolution Professional ("**IRP**"), who was subsequently confirmed as RP.

(iii) Financial facilities were assigned to UV Asset Reconstruction Company Ltd., who became Member of the Committee of Creditors ("**CoC**")

(iv) The RP visited the hotel premises to take possession on 08.07.2024 and have taken the custody and control of the assets of the CD, except certain rooms and area in the hotel

premises, which were in possession of the Suspended Director their families, friends, relatives and associates, from whom possession could not be taken. In the first Meeting of the CoC held on 02.08.2024, the RP apprised the CoC about that possession of certain premises in the hotel could not be taken. The CoC advised the RP to take appropriate action within the ambit of IBC.

(v) The RP issued notice on 04.10.2024 to the Suspended Director seeking vacation of the rooms. The premises having not been vacated by the Ex-Directors, their family Members, friends, relatives and associates, an IA(IBC)/2486(CH)/2024 was filed by the RP, seeking a direction for vacation of peaceful possession of the CD's premises. The application, which was filed, was against the Suspended Director of the CD, subsequently other Respondents were impleaded including the Appellant herein, who was also occupying premises of the hotel. Notices were issued to Respondents in the application, including the Appellant. The Appellant filed its reply and additional reply to the application. The Appellant claimed occupation of salon at 2nd floor and 12-13 shops under Profit Sharing Agreement dated 17.06.2019 and 13.03.2020 entered with the CD and the Appellant. With regard to occupation of five rooms at 8th floor, it was pleaded that key managerial personnel of the Appellant is occupying

the said floors to set-off the outstanding amount receivables from the CD towards supply of materials. The RP filed a rejoinder to the rply pleading that the Profit Sharing Agreement dated 17.06.2019 and 13.03.2020, which is relied by the Appellant, is not part of the record of the CD. The said documents are sham and have been created with the help of Suspended Director and are not genuine documents. It is pleaded by the RP that no amount with respect to the above Profit Sharing Agreement have ever been paid to CD, nor the records of the CD reflect any payment. The records of the CD does not reflect the aforesaid Profit Sharing Agreement and the same are sham documents. It is pleaded that the Appellant has no right or authority to occupy the rooms in the hotel. The hotel admittedly owned by the CD and after initiation of the CIRP, it is the duty of the RP to file an application to take possession of the premises.

(vi) The Adjudicating Authority heard the parties and by the impugned allowed the application. With respect to the claim of the Appellant, the Adjudicating Authority held that the Appellant cannot be allowed to continue their possession in lieu of dues, if any, after initiation of CIRP. The Adjudicating Authority also returned a finding that with respect to Profit Share Agreement dated 17.06.2019 and 13.03.2020, no amount in that regard has been credited in the books of the

account of the CD or the bank statements. In Paragraph 11 and 12 of the judgment, the Adjudicating Authority made following observations:

> "11. As regards the Occupancy of Second Floor Salon and 3rdFloor 13 Shops on the strength of alleged profit-sharing agreements dated 17.06.2019 and 13.03.2020, we note that no profit hitherto through that arrangement has been received by the Corporate Debtor. No amount in that regard stands credited into the Books of Account of the CD or the bank statements. In that context, we have also taken a note that the Tru Prime Private Limited are essentially engaged in supply of milk and milk products and not doing any business there at the occupied premises on their own; rather it is stated that the said premises [2nd floor saloon and 3rd floor shops] are further given to third-parties with some similar arrangements.
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> During the course of the arguments, the Ld. Counsel appearing for the Tru Prime Private Limited (R3) denied any relationship between its director namely Mrs. Amandeep Khangura and the Corporate Debtor. Nevertheless, we find that the five rooms on the 8th floor of the hotel building are used for the residence of Mrs. Amandeep Khangura. A plea has been taken in that regard that such an arrangement is made in lieu of the outstanding amount payable by the CD on supply of milk and milk products (ghee etc.).
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> In the context, the Ld. Senior Counsel for the RP has pointed out that the alleged 40 invoices raised by Tru Prime Private Limited (R3) towards the supply of ghee to the Corporate Debtor between 01.01.2024 and 30.06.2024 related to approximately 7000 litre of ghee purportedly purchased by the Corporate Debtor in the six months preceding the insolvency commencement date Le. 03.07.2024 are grossly disproportionate to general usage of the product in the hotel which is approximately 40 to 50 litres per month. It was also submitted that prior to such purchase of ghee in the preceding six months, the regular supply as made by the Tru Prime Private Limited of milk and milk products and recorded in the books of accounts of Corporate Debtor was much less and the same was being paid in the course of regular business; and as such invoices are fabricated only to create fictitious outstanding dues so as to justify the possession onto the Corporate Debtor's premises. It was submitted that even if there remained an outstanding amount payable by the Corporate Debtor, then following the initiation of the Corporate Insolvency Resolution Process, the R3 could have filed their claim to the RP.
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> During the course of the argument, Ld. Senior Counsel for the RP has also drawn our attention to the serious mismatch

within the Tru Prime's 'gate outward challan' and the tax invoices receipts issued by the CD in support of their contention that these invoices were fabricated and as such there was no supply of milk/milk products (ghee) to that extent during that period.

It is also submitted that though such invoices are straightaway recorded in the books of accounts, but there is no record of such receipts and consumption of the above quantum of ghee in the record of the CD. It was also pointed out that all these invoices issued on different dates are entered into books of accounts through general entries and are in seriatim which is inconsistent with normal business practice and supports their contention of fabrication.

12. It is also contended that the Tru Prime Private Limited(R3) is a related party to the Corporate Debtor as Mr. Kewal Krishan Sharma [one of the suspended director of CD] has been a common Director of both the Companies between 30.09.2012 and 27.05.2018 and also a shareholder of Tru Prime Private Limited and as well as close aid of R1-Jasbir Singh Khangura. It is also pointed that Mrs. Amandeep Khangura (Director of Tru Prime Private Limited) has been also a co-director with R1 in another Company named Caring XL Consultants Pvt. Ltd. (a Company with same registered address as of the Corporate Debtor) in which R1 was also a Shareholder. Further the Chief financial officer of the Corporate Debtor is also a Director in Caring XL Consultants Pvt. Ltd; Mr. Harbinder Singh Grewal

(Signatory of alleged profit-sharing agreement on behalf of CD) was also a Director in a Caring XL Consultancy Pvt. Ltd., while also being the Managing Director of Corporate Debtor at some time. We have noted such close connection and nexus between Amandeep Khangura vis-à-vis the Respondent No.1-Jasbir Singh Khangura, the Suspended Director of the CD. As such R3 being related party can not be allowed to continue their possession in lieu of dues, if any, on initiation of Corporate Insolvency Resolution Process of the Corporate Debtor as it would also tantamount to having given priority to such related party over the other stakeholders.

We also note that in the light of facts and finding as detailed herein above, the various case laws relied upon by the respondents are not applicable in the present case and the reliance thereof is quite misplaced."

(vii) Aggrieved by the above order, this Appeal has been filed.

3. We have heard Shri Pulkit Goyal, learned Counsel appearing for the Appellant; shri Krishnendu Datta, learned Senior Counsel appearing for

the RP and Ms. Ridhima Mehrotra, learned Counsel appearing for the CoC.

4. The RP has filed and affidavit in pursuance of the liberty granted by this Tribunal on 08.05.2026.

5. Learned Counsel for the Appellant challenging the order submits that there being contract entered between the CD and the Appellant i.e. Profit Sharing Agreements dated 17.06.2019 and 13.03.2020 in pursuance of which the Appellant has been occupying the premises i.e. salon at 2nd floor and 12-13 shops in third floors. On commencement of the CIRP, the Agreements between the parties do not come to an end. The application filed under Section 19 of the IBC against the Appellant was not maintainable. The Appellant being a third party is unrelated entity. The Adjudicating Authority has no summary jurisdiction to enter into forgery alleged by the RP with regard to Profit Sharing Agreement and the invoices claimed by the Appellant. The Adjudicating Authority has no jurisdiction to direct eviction of the Appellant. The RP is attempting indirectly, which cannot be done directly. It is submitted that the Appellant is entitled to occupy the salon at 2nd floor and 12-13 shops at 3rd floor. There was no application filed by the RP under Sections 43 and 66 of the IBC with respect to transaction in question. The Appellant is fully entitled to occupy the premises and it is licensee under the commercial agreement. The Appellant has cited various judgments in support of his submissions, which has not been considered by the Adjudicating Authority in the impugned order.

6. Shri Krishnendu Datta, learned Senior Counsel appearing for the RP (Respondent No.1) refuting the submissions of learned Counsel for the Appellant submits that Appellant has no right or authority to occupy the premises of the hotel. The Profit Sharing Agreement dated 17.06.2019 and 13.03.2020, which are claimed by the Appellant are sham transactions. The documents claimed by the Appellant are not part of the record of what has been received by the RP, nor the documents are reflected in any of the records of the CD. The documents for the first time surfaced in reply filed by the Appellant to the application for eviction, prior to which neither the said documents were produced before the RP nor even Suspended Directors informed of any such Profit Sharing Agreements. The Appellant was supplying milk and ghee to the hotel. The Profit Sharing Agreements are unregistered and unstamped Agreements, which cannot create any occupancy right in favour of the Appellant on the 2nd and 3rd floors of the hotel. With regard to rooms occupies on the 8th floor, the Appellant has not even raised any arguments, which were occupied by key managerial personnel of the Appellant Amandeep Kaur Khangura. After initiation of the CIRP, it is the duty and obligation of the RP to take possession of the assets of the CD. The hotel is owned by the CD, which is not even disputed. There is no lease or license in favour of the Appellant to occupy the premises. The Suspended Directors have also in the Meeting of the CoC expressed their ignorance regarding the right of the Appellant to occupy the premises. The Appellant is illegally occupying the salon at 2nd floor and 12-13 shops on 3rd floor. No consideration has ever been received by the CD under the

alleged Profit Sharing Agreements, nor any such payment has been reflected in the Bank statements or the ledgers of the CD. Occupation of the premises in the hotel of the CD is in violation of the Code and is illegal. The RP has every right to take possession of the assets of the CD and the application filed by the RP being IA(IBC)/2486(CH)/2024 was fully maintainable and the Adjudicating Authority has ample jurisdiction to direct for eviction of unathorised occupant including the Appellant. Judgments, which have been relied by the Appellant, do not render any help and are not applicable in the facts of the present case. It is submitted that the Tribunal has jurisdiction to entertain the application filed by the RP to seek possession from unauthorized occupant, which is a law well settled by this Tribunal and by Hon'ble Supreme Court. Learned Counsel for CoC also supported the actions of RP and order passed by Adjudicating Authority directing handing over possession of hotel premises.

7. We have considered the submissions of learned Counsel for the parties and have perused the record. Learned Counsel for the parties have relied on various judgments in support of their respective submissions, which we shall refer hereinafter.

8. The materials on record indicate that salon at 2nd floor and 12-13 shops at 3rd floor were occupied by the Appellant. Five rooms on 8th floor being Room Nos.1802 to 1806 were occupied by Amandeep Kaur Khangura, the key managerial personnel of the Appellant. The RP has sought eviction of the Suspended Directors, their families, friends,

relatives and associates from the premises of the hotel. Initially, the Appellant was not impleaded as party to the application, however, in pursuance of the order of the Adjudicating Authority dated 05.05.2025, the Appellant was impleaded as Respondent No.3 in the application. The Appellant also filed a short reply and an additional reply in support of its case, where reliance has been placed on Profit Sharing Agreements dated 17.06.2019 and 13.03.2020 for occupation of 2nd and 3rd floor. With respect of occupation of 8th floor, it was pleaded by the Appellant that occupation of five rooms are on account of the Appellant having supplied the goods namely – milk and milk products to the CD at its hotel premises and the payments against the goods were made by the Bank transfer as well as by way of set-off for providing services. In the Appeal, which has been filed, no arguments have been advanced by the Appellant with regard to continuance of the occupation on 8th floor. In the application for interim relief, the prayers made are only for restraining dispossession of the Appellant from salon at 2nd floor and 12-13 shops at 3rd floor. It is useful to notice the prayer (C) in the interim application, which is as follows:

> (c) Restrain the Respondents from disposing the Appellant from the following premises pending the disposal of the Appeal:
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> - Salon on 2nd floor of Hotel Majestic Park Plaza, Ludhiana;
> - 13 Shops on the 3rd floor of the said hotel;

9. The Appellant has also not addressed any arguments in support of occupation of five rooms at 8th floor, which were occupied by key

managerial personnel of the Appellant, i.e. Amandeep Kaur Khangura. Submissions have been made by the Appellant challenging the order of the Adjudicating Authority with respect to salon at 2nd floor and 12-13 shops at 3rd floors. The basis of the Appellant to continue to occupy the salon at 2nd floor and 12-13 shops at 3rd floor is Profit Sharing Agreement dated 17.06.2019. Copy of the said Agreement has been filed as Annexure A-4 to the Appeal. Further, for occupation of the premises at third floor of hotel, Profit Sharing Agreement dated 13.03.2020 has been relied. We have noticed above that RP categorical case before the Adjudicating Authority and before this Tribunal is that the said Profit Sharing Agreements are sham documents and have for the first time surfaced in reply filed by the Appellant to the application of the RP. Prior to which date, the said Profit Sharing Agreements are not part of the record of the CD, nor have been submitted or claimed before the RP by the Appellant. Further, the said Agreements are neither registered documents nor the same have been adequately stamped. Further, it is pleaded and on record that no amount in pursuance of Profit Sharing Agreements have ever been received by the CD, which is apparent from its Bank statements and the ledgers. It is not even a case of the Appellant that any profit sharing amounts have been paid to the CD as per the Profit Sharing Agreements. Learned Counsel for the Appellant, however, during the course of the submissions has submitted that the Appellant is ready and willing to pay the profit share of the CD, which can be paid to the RP.

10. The relevant facts and circumstances, which have reflected from the materials on record, clearly suggest that Profit Sharing Agreements have never been claimed by the Appellant prior to filing of reply to the application for vacation of Appellant and others from the hotel premises. The Agreements are admittedly unregistered Agreements and have not been adequately stamped. We, however, for arguments sake proceed to look into the Profit Sharing Agreements to find out as to whether the said Agreements can give any right to the Appellant to continue to occupy 2nd and 3rd floors of the hotel. The Profit Sharing Agreement dated 17.06.2019 is filed at Annexure A-4, under which the First Party is the CD, owner of the hotel Park Plaza. The Agreement states that Second Party has approached the CD to operate the Salon located at floor 2. The term of the Agreement was for eight years from the date of the Agreement. Clause-4, which deals with 'Profit Share', is as follows:

> "4. Profit Share. The Second Party shall share 25% of all profits with the First Party. Profits shall be calculated, in a reasonable manner, by both Parties and the basis of standard accounting procedures."

11. The Security Deposit stated "NIL". With respect to 'Profit & Loss', Clause-17 provides as follows:

> "17. Profit & Loss.
>
> I. The Second Party will furnish six monthly Profit & Loss statements for periods ending 31 March and 30 September.

II. The First Party will raise any queries within 7 days of receipt of said statement being received.

III. Once the statement has been agreed by both parties any profit share due to the First party will be paid within 7 working days. Any delay in payment of the profit share will attract interest at the rate of 3% per month or part thereof."

12. Similarly, Profit Sharing Agreement dated 13.03.2020 entered with the CD and representative of the Appellant for 13 units at 3rd floor. Its term was for 10 years and Clause-4 of the Agreement provides as follows:

> "4. Profit Share: The Second Party shall share 12.5% of all profits with the First Party. Profits shall be calculated, in a reasonable manner, by both Parties and the basis of standard accounting procedures."

13. Clause-17 of the Agreement dated 13.03.2020 provides as follows:

> "17. Profit & Loss.
>
> I. The Second Party will furnish six monthly Profit & Loss statements for periods ending 31 March and 30 September.
>
> II. The First Party will raise any queries within 7 days of receipt of said statement being received.
>
> III. Once the statement has been agreed by both parties any profit share due to the First party will be paid within 7 working days. Any delay in payment of the profit share will attract interest at the rate of 3% per month or part thereof."

14. The above Agreements, which are claimed by the Appellant are Profit Sharing Agreements, where Second Party undertook to share 25% of all profits with the First Party and as per the Appellant under the said Agreements the Appellant is occupying the 2nd and 3rd floors.

15. The CIRP in the present case commenced on 03.07.2024 and RP approached the Appellant and other occupants in the premises for vacating the premises, which Appellant and others occupants denied and did not vacate the premises. The RP brought into the notice of the CoC about the illegal occupation of the premises. In the affidavit filed by the RP, Minutes of 3rd CoC held on 11.10.2024, where the RP informed the CoC about the premises still under occupation of Suspended Directors and their families, friends, relatives and acquaintances. Under Agenda Item No.3, following is noted by the CoC:

> "AGENDA ITEM NO. A-3
>
> xxx xxx xxx
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> 2. Notice for vacating the premises in possession of Suspended Directors of Corporate Debtor
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> The Resolution Professional informed the committee that acting on the advice/suggestion of Committee during the 1st and 2nd meeting, the Resolution Professional, through his legal counsel has issued legal notice on 04.10.2024 to the Director (powers suspended) of the Corporate Debtor, Mr. Jasbir Singh Khangura and others for vacating the premises of Corporate Debtor which is in his possession.
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> The Resolution Professional screen shared the said legal notice issued on 04.10.2024 whereby 5 days' notice period was given to Mr. Jasbir Singh Khangura for vacating the premises of Corporate Debtor. The said notice was discussed and deliberated in the meeting in detail.
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> The CoC member asked the RP, to appraise committee about the areas which is still not being handed over to the RP, the Resolution Professional informed the committee that as per his knowledge a saloon at the 2nd floor, thirteen shops at the 3rd floor, which is the main lobby area, coffee shop and front office is there apart from other amenities, and room Nos. 1802 to 1806 at the 8th floor and all rooms at the 9th floor of Majestic Park Plaza, Bhai Bala Chowk Ferozpur Road, Ludhiana –141002 are in unauthorised and illegal occupation Mr. Jasbir Singh Khangura and his family/friends/relatives/acquaintances. Further, the Resolution Professional apprised the committee that said 5 days' notice expired on 10.10.2024. However, neither any response has been received from Mr. Jasbir Singh Khangura in respect of the said

> legal notice nor he has vacated the premises of the Corporate Debtor in his occupation.
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> Member representing UVARC were displeased with the conduct of Mr. Jasbir Singh Khangura and enquired from Mr. Kewal Krishan Sharma if he is aware as to why Mr. Jasbir Singh Khangura is not vacating the premises of Corporate Debtor in his occupation. Mr. Kewal Krishan Sharma informed the committee that Mr. Khangura will be the right person to answer this question and as such he is not aware about the affairs of Mr. Jasbir Singh Khangura.
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> The member representing UVARC further enquired from Mr. Kewal Krishan Sharma that being a director of Corporate Debtor, he must be aware about all the affairs concerning the Corporate Debtor. Mr. Kewal Krishan Sharma submitted that before the commencement of CIRP he was handling and has full knowledge of matters pertaining to the Corporate Debtor. However, post initiation of CIRP all the management of affairs of Corporate Debtor is vested with Resolution Professional. Mr. Sharma clarified that he is not residing in the premises of Corporate Debtor and it is Mr. Khangura who is occupying the premises of the Corporate Debtor.
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> Further, Resolution Professional enquired from Mr. Kewal Krishan Sharma as to whether there is any other asset of the Corporate Debtor which not in the possession, custody & control of the Resolution Professional. Mr. Sharma replied that apart from the above mentioned premises occupied by Mr. Khangura, there is no other asset of the Corporate Debtor which is not in the possession, custody & control of the Resolution Professional."

16. The RP has also apprised the CoC about the filing of an application for vacation of premises from Suspended Directors and their relatives and acquaintances. The RP has apprised the CoC of the steps taken before the Adjudicating Authority by the RP seeking eviction of the Suspended Directors and other persons occupying the premises of the hotel. The CoC permitted the RP to take all necessary actions to get hotel premises vacated.

17. The above Clauses of Profit Sharing Agreements, cannot give any occupancy right to the Appellant to continue in the premises of hotel after commencement of the CIRP, specially when RP has asked the occupants to vacate and handover the possession and has already filed an

application for their eviction. The Profit Sharing Agreements relied by the Appellant dated 17.06.2019 and 13.03.2020 are neither a lease nor license to continue the Appellant to occupy the premises. What the Appellant claimed is that they entered into Profit Sharing Agreements with the CD and it was to share 25% of the profit out of the business. The record indicate that RP has never permitted the Appellant to continue after commencement of the CIRP and has asked for eviction of the premises and filed an application before the Adjudicating Authority for eviction. The RP also brough into the notice of the CoC about the illegal occupation and the Coc has authorized the RP to take appropriate action as per the IBC. Any right in the premises can be claimed only by virtue of any lease or license. Profit Sharing Agreements although refer to for a period of 8 and 10 years respectively, but they are unregistered Agreements and cannot create any interest in immovable property.

18. We need to notice certain judgments relied by learned Counsel for the Appellant in support of his submission that the Appellant is entitled to continue in view of Profit Sharing Agreements and their possessions cannot be taken. The Appellant has relied on the judgment of this Tribunal in ***Deepak Sakharam Kulkarni vs. Manoj Kumar Agarwal - Company Appeal (AT) (Insolvency) No. 63 of 2024*** decided on 01.07.2024. Learned Counsel for the Appellant relied on above judgment of this Tribunal and submitted that in the above case, this Tribunal took the view the lease was never terminated during the CIRP and without terminating the lease, the SRA, cannot extinguish the rights of the lessee.

In the above case, Resolution Plan was approved on 23.06.2023, which was challenged in this Tribunal. In the above background, this Tribunal has made following observations in Paragraph 172:

> "172. The IBC does not contemplate termination of all contractual agreements, creating legal rights in favour of third parties. There can be cases, where Corporate Debtor even during currency of the CIRP can terminate contractual agreements as per the Clauses of the agreements. But, IBC cannot be used for purpose of extinguishing of contractual agreement, negating rights of third parties. It can be explained by taking an example – a Corporate Debtor is owner of a building, which has been leased out for 30 years' lease to a tenant on payment of yearly rent. When the building is taken in the CIRP, the tenant shall not be automatically deprived of his tenancy rights in the assets. The termination of tenancy can be only done in accordance with the Clauses of the lease, which, if permissible, may be done during CIRP or even thereafter. But by taking the building in the CIRP, rights of tenant cannot be extinguished."

19. Learned Counsel for the Appellant has relied on Paragraph 174, which is as follows:

> "174. The Hon'ble Supreme Court has given a note of caution to NCLT and NCLAT regarding interference with a party's contractual right to terminate a contract. In the present case, even though in the CIRP, the lease executed in favour of the Appellant, could have been terminated as per the Clauses of the Lease Deed, in fact the termination has not happened as has been pleaded by RP in its affidavit as extracted above. When the Lease Deed under which the Appellant has constructed the building and is entitled to receive the construction cost from the Lessor, termination and re-enter has not been done directly, by any sidewind, by the Clauses of Resolution Plan, extinguishing the rights of the Lessee, is impermissible and contrary to the law."

20. The facts of the above case indicate that there was a lease in favour of one of the Appellant, which was although not terminated, but SRA in the Resolution Plan has extinguished the rights under Clauses 13.3 to 13.6. In the above background, this Tribunal held that without terminating the lease, the rights of the lessee cannot be extinguished.

21. The above judgment does not help the Appellant in the present case. The Appellant does not claim any lease hold rights in the premises, which is being occupied by the Appellant, nor there is any license in favour of the Appellant. The Profit Sharing Agreements, which are relied by the Appellant are unregistered Agreements and they are only for the purpose of profit sharing in the business. By entering into profit sharing business with the CD, the Appellant cannot claim any right of occupation of the premises. Admittedly, the hotel is owned by the CD and after commencement of the CIRP, the RP was fully entitled to seek possession of the premises. The Appellant has failed to prove any right to remain in occupation of the premises or to resist the eviction.

22. Learned Counsel for the Appellant has further placed reliance on judgment of this Tribunal in ***K.K. Jute Products Pvt. Ltd. vs. Tirupati Jute Industries Ltd. – Company Appeal (AT0 (Ins.) No.277 of 2019*** decided on 20.02.2020. The above was a case where the Adjudicating Authority has rejected the Resolution Plan. In the above case, the CD has executed a lease in favour of one M/s Daakh Jute LLP, which lease was subsisting during the CIRP. This Tribunal has noted the facts of the case as reflected in the order of the Adjudicating Authority in Paragraph-2 of the judgment. It is useful to notice Paragraph-2 (24, to 26 and 27), which are as follows:

> *"2.(24) By inviting public advertisement on 06.05.2018, RP called upon the prospective application to submit EoI/Resolution Plan by 23.05.2018. It was made clear that such applicants to submit EoI/Plans AS IS WHERE IS AND AS IS WHAT IS basis as regards to the status of the Corporate Debtor. It is not in dispute that on*

01.08.2016 i.e. almost one year prior to filing of application under section 7 of I&B Code by the financial creditor, the corporate debtor executed lease deed in favour of one M/s. Daakh Jute LLP and handed over the jute mill for running. It is also not in dispute that lease agreement in between the Corporate debtor and Daakh Jute LLP is still subsisting. It is submitted by the Ld. Counsel for the RP that lease deed is void as it was executed by the corporate debtor after the receipt of notice under section 13(2) of SARFAESI At. He pointed out that Resolution Professional has filed application under Section 45 of the I&B Code bearing No. CA (IB) No. 36/KB/2019 for cancellation of that lease deed. I fail to understand how that application is maintainable which is filed beyond CIRP period of 270 days and more particularly when lease agreement was executed one year prior to the date of commencement of admission of the application of the finance creditor against the corporate debtor. In my considered opinion such application may not be maintainable under section 46 of I&B Code. Apart from that, real question is having published the notice calling for the EoI/Plan AS IS WHERE IS AND AS IS WHAT IS basis, whether the RP/CoC were in position to waive that condition while accepting the plan of M/s. K.L.Jute, I found that RP/CoC exactly did the same thing when they approved the plan submitted by M/s. K.L.Jute. I examined the plan of K.L.Jute products private Limited. M/s. K.L.Jute has made it clear in the resolution plan that the plan is subject to extinguishment of all claims (except criminal proceeding) against the corporate debtor upon approval of their plan by this authority. They gave list of such conditions precedent in the plan itself and stated that the plan is submitted subject to compliance of those conditions. Those conditions, were relating to exemption of all taxes/dues by the government/local authorities, disposal of all proceedings pending against the corporate debtor relating to such dues. How having submitted the plan after considering the invitation of plan on the basis of AS IS WHERE IS AND AS IS WHAT IS basis, it was not proper on the part of K.L.Jute to put all above conditions in the plan. In my considered opinion, such plan ought not to have been approved by the CoC.

xxx xxx xxx

26. This takes me to consider one more crucial aspect due to which I feel that the resolution plan submitted for my approval, cannot be approved. Section 30(2)(e) of I&B Code states that the resolution plan should not contravene any provisions of law by the time being in force. Successful Resolution Applicant, M/s. K.L.Jute clearly stated in their plan that this authority while approving their plan has to pass the order cancelling the lease deed dated 01.08.2016 executed in between the Corporate Debtor and Daaksh Jute LLP. To my mind, this condition in the plan is contrary to the established procedure of law. Hon'ble NCLAT in case of Raj Builders vs. Raj oil Mills ltd. (Company Appeal No. 304 of 2018) clearly stated the position of law in this aspect. It was appeal against the order of NCLT, Mumbai bench, in that case, the Corporate Debtor was tenant holding over in the premises which was to go in possession of Successful Resolution Applicant. NCLT, Mumbai bench noted this fact while approving the

plan but did not pass order of eviction of the corporate debtor/tenant. Successful Resolution Application filed appeal against the order refusing to evict the tenant. The Hon'ble NCLAT considering that facts held that, "Adjudicating Authority is not competent to pass any order for eviction". In this case M/s. Daaksh Jute LLP is lessee in possession of Jute Mill owned by the Corporate Debtor. The Lease period is yet to over. It may be true that lease deed was executed by the corporate debtor after receipt of notice under Section 13(2) of SARFAESI Act. Real question is whether this authority has jurisdiction to hold that the lease is bad in law a pass order of eviction of the Daaksh Jute LLP from possession of the premises of the corporate debtor, as per the condition laid down in the resolution plan of Successful Resolution Applicant?

27. My answer to this question is that this Authority does not have such jurisdiction. M/s. K.L.Jute has submitted plan to the CoC stating the above conditions i.e. eviction of Daaksh Jute LLP. The CoC having issued public notice of invitation of EoI/Plan as AS IS WHERE IIS AND AS IS WHAT IS basis, the CoC made exception to the above condition and approved the plan. The plan as approved by them cannot be effectively implemented because resolution applicant made it very clear that his plan is subject to fulfilment of conditions i.e. eviction of Daaksh Jute LLP. To evict Daaksh Jute LLP, one has to approach proper forum. One does not know as to what time will require to get such eviction order. In such a situation, CoC ought not have approved the plan. I do not question commercial wisdom of CoC herein but it appears to me that the CoC did not consider the legal implications while approving the plan. They approved the plan ignoring the provisions of Section 30(2)(e) of I&B Code. I hold that resolution plan submitted for my approval is in a contravention of above provision of law. It cannot be approved by this authority. I reject the resolution plan of M/s.K.L. Jute Products Private Limited for the above reasons."

23. Further, the RP has filed an application under Section 45 and 46 for cancellation of the lease, which was dismissed by the Adjudicating Authority, which has been noticed in Paragraph 7 of the judgment, which is as follows:

> "7. That apart, it is stand of the Appellant that the 1st meeting of 'Committee of Creditor' on 02.03.2018 confirmed the 'Interim Resolution Professional' Mr. Pinaki Sircar as 'Resolution Professional' (3rd Respondent) and that the said 'Resolution Professional' filed an application u/S 45 and 46 of the 'Insolvency and Bankruptcy Code, 2016' for cancellation of the 'Lease Agreement dated 01.08.2016 (after the expiry of the 270 days period), which was dismissed by the 'Adjudicating Authority'. Moreover, based on the instructions of the 'Committee of Creditor'

> a public notice was published in the 'Indian Express' Newspaper on 06.05.2018 calling for 'Expression of Interest' and 'Resolution Plans' on the basis of the status of the 1st Respondent/Corporate Debtor on "AS IS WHERE IS AND AS IS WHAT IS BASIS" in regard to the status of assets and documents thereof, pursuant to which the 'Resolution Professional/3rd Respondent' received three Resolution Plans on different dates prior 15.06.2018 and the same were discussed in the meeting of 'Committee of Creditors' that took place on 09.08.2018. The three resolution plans related to:
>
> i. K.L.Jute Products Pvt. Ltd/Appellant,
> ii. Madan Mohan Mal ("Objector No.1/8th Respondent") (a related party to the Corporate Debtor/1st Respondent).
> iii. Prashant Damani ("Objector No.2/9th Respondent") (Director of Abinandan Holdings Pvt. Ltd/6th Respondent)."

24. In the above facts, this Tribunal affirmed the judgment of the Adjudicating Authority and has held that Adjudicating Authority could not have directed eviction of Respondent No.2. In paragraph 65, following was observed:

> "65. Insofar as, the eviction of 2nd Respondent is concerned, the Adjudicating Authority is not empowered to pass an order of eviction and it is for an 'Aggrieved party' to move the appropriate forum for redressal of its grievances in accordance with Law. In short, the Committee of Creditors had approved the Resolution Plan in utter disregard regard to the ingredient of Section 30(2)(e) of the I&B Code and as hence the same was rejected by the Adjudicating Authority. Moreover, the Adjudicating Authority had appointed a 'Liquidator' other than the 'Existing Resolution Professional'."

25. The above judgment in no manner help the Appellant in the facts of the present case. In the above case there was a lease, which was continuing and subsisting during the CIRP and the application filed by the RP to cancel the lease under Section 43 and 45 was rejected. The above judgment does not come to any rescue to the Appellant.

26. Further, reliance is placed by the Appellant on judgment of this Tribunal dated 09.01.2025 in ***Company Appeal (AT) (Ins.) No.884 of***

2024 – Sumati Suresh Hegde and Ors. vs. Anand Sonbhadra (RP0 and Ors., where an order was passed by the Adjudicating Authority on the application of the RP against the Appellant for direction to handover the control and custody of the property, which was challenged in this Tribunal. This Tribunal in the above judgment has noted that predecessor in the interest of the Appellant was tenant of the premises and in a Suit RAD No.916 of 2005 before a Small Causes Court, a decree was granted in favour of the predecessor in interest. In Paragraphs 6 and 7 of the judgment following has been noticed:

> "6. It is alleged that their predecessor in interest filed a RAD Suit No. 916 of 2005 before the Small Causes Court, Bandra Branch, Mumbai for declaration that he is a monthly tenant in the property in question.
>
> 7. The suit was decreed on 26.11.2009 with the following order:-
>
> > "Suit is decreed with costs.
> >
> > It is hereby declared that Plaintiff is tenant of the defendant in respect of the suit premises viz Villa Mohindra Outhouse, 13th Road, TPS III, CTS No. 543, Khar (W), Bombay – 400052.
> >
> > The Defendants are restrained from dispossessing and / or obstructing the use, occupation and possession of plaintiff in respect of the suit premises Villa Mohindra outhouse, 13th Road, TPS III, CTS No. 543, Khar (W), Bombay 400 052 without following due process of law"

27. After the above judgment, a suit was filed by the CD against the predecessor in interest of the Appellant for vacation of the premises being Suit No.149 of 2011, which suit was pending at the time when Section 7 application was admitted. The said suit was subsequently dismissed for non-prosecution. In the above background of facts, this Tribunal allowed the Appeal and held that Adjudicating Authority could not have directed for eviction. In Paragraph 29 of the judgment, following was laid down:

> "29. It is also otherwise well settled that once a tenant always a tenant unless the status changes by contract or by operation of law and in this regard reference may be had to the decision of MR Sahni (Supra), M/s Jagdambey Builders Pvt. Ltd. (Supra) and Vishal N. Kalsaria (Supra). The Application under Section 60(5) of the Code is only maintainable if the issue involved is related to insolvency resolution process in view of the decisions of the Hon'ble Supreme Court in the case of Embassy Property Development P. Ltd. (Supra) and Gujarat Urja Vikas Nigam Limited (Supra)."

28. The above judgment also in no manner help the Appellant in the facts of the present case.

29. Learned Counsel for the Appellant has also relied on judgment of the Hon'ble Supreme Court in ***Embassy Property Developments (P) Ltd. vs. State of Karnataka – Civil Apeeal Nos.9170 of 2019***. The above was a case where order of Adjudicating Authority directing State of Karnataka to issue mining lease in favour of the CD was challenged. In the above background of facts, the Hon'ble Supreme Court held that Adjudicating Authority had no jurisdiction to entertain an application under Section 60 sub-section (5) against the order of State of Karnataka, refusing to renew the mining lease in favour of the CD. The judgment of **Embassy Property Developments Pvt. Ltd.** has no application in the present case. In the present case, the RP was fully entitled to file an application under Sections 19, 25 and 60 sub-section (5) to seek eviction from the assets, which are owned by the CD. The Appellant having failed to prove any right to occupy the premises, the Adjudicating Authority has rightly allowed the application filed by the RP.

30. In the above reference, we also notice that against the same impugned order directing for eviction of Suspended Director and their

relatives, Company Appeal (AT) (Ins.) Nos.686 and 801 of 2026 have been filed by Raman Khangura and Jagpal Singh Khangura and Ors. By judgment delivered today, we have dismissed both the aforesaid Appeal(s). In the above case also the Suspended Directors were claiming to continue in possession on the basis of two MoUs executed between the CD and the Suspended Director – Raman Khangura. In the above case in Paragraphs 18 to 22, we have observed as follows:

> "18. The occupancy rights in any immovable property can be claimed by means of a lease/license in the property. The Transfer of Property Act provides that the lease which is a lease for a period of more than a year can be only by registered agreement. The MoU being unregistered agreement, no right of occupancy can be claimed by an un-registered document. No right of occupation in the immovable property can be claimed and further after commencement of the CIRP it is the obligation of the Resolution Professional to take possession of all assets of the corporate debtor on which corporate debtor has ownership right. The ownership right of the corporate debtor is not even disputed by any of the parties. The MoU cannot be said to give any occupancy right in immovable property in favour of Mrs. Raman Khangura, the shareholder and ex-director of the corporate debtor. Learned Counsel for the Respondent No.1 has rightly submitted that even if the claim of Mrs. Raman Khangura is accepted that she had certain unpaid dues as per MoU, it was open for Mrs. Raman Khangura to file a claim in CIRP whereas no claim has been filed in the CIRP by Mrs. Raman Khangura or any other family members who is residing in 9th floor of the hotel.
>
> 19. In the above reference, we need to notice two recent judgments of this Tribunal relied by Counsel for Respondent No.1, "Gir Vanvaso Resort v. Pancard Clubs Ltd.- 2025 SCC OnLine NCLAT 2091" was a case where after initiation of the CIRP, Resolution Professional had filed an application to take possession of the assets of the Corporate Debtor which was in possession of the Appellant- Gir Vanvaso Resort who claim the possession on basis of MoU dated 06.12.2013 entered with the corporate debtor under which Appellant has advance certain amounts to the corporate debtor who in event was unable to return the amount was liable to execute transfer the assets in favour of the Appellant. Resolution Professional has filed an application for taking the possession of the assets which was allowed by the Adjudicating Authority against which appeal was filed by Gir Vanvaso Resort. This Tribunal in the above judgment held that MoU dated 06.12.2013 was not a registered document on which basis no right or possession in the assets of the corporate debtor could be

claimed and Appellant was treated to be unauthorised occupant. In paragraph 38, following was held:-

> *"38. We having found that the MoU dated 06.12.2013 is not legally valid document to claim any right of possession of the said assets of the Corporate Debtor. Appellant has to be treated to be in unauthorised and wrongful possession of the assets....."*

20. Another judgment which has been relied by the Respondent is judgment of this Tribunal dated 27.03.2026 in Company Appeal (AT) (Insolvency) No.187 of 2026 "Classic Marble Company Pvt. Ltd. vs. Truvisory Insolvency Professional Pvt. Ltd. & Anr.". In the above case, Corporate Debtor's assets were occupied by Classic Marble who claimed that he is to continue in possession as per permission and there being dues on the corporate debtor, Appellant was entitled to continue till dues are cleared which was the case set up by the Appellant. This Tribunal held that the Resolution Professional could have taken steps to take possession of the assets belonging to the corporate debtor. In paragraphs 15, 16 & 17, following was held:-

> *"15. Counsel for the Respondent has relied on judgment of this Tribunal in "M/s. Jhanvi Rajpal Automotive Pvt. Ltd. vs. R.P. of Rajpal Abhikaran Pvt. Ltd. Company Appeal (AT) (Ins.) No.1417 of 2022" decided on 05.01.2023. In the said judgment, issue of similar nature came for consideration. One of the questions which was framed by this Tribunal in paragraph 8(i) was 'whether the Adjudicating Authority had jurisdiction to entertain IA filed by the RP seeking direction to the Appellant to handover the possession of the premises which premises was owned by the Corporate Debtor?'. Question 8(i) is as follows:-*
>
> > *"i. Whether the Adjudicating Authority had jurisdiction to entertain I.A. No. 200 of 2022 filed by the RP seeking direction to the Appellant to hand over the possession of the premises which premises was owned by the Corporate Debtor?"*
>
> *16. This Tribunal heard the parties, noticed Section 18, Section 25 as well as Section 60(5) of the IBC. In paragraph 14, it was held that when there is no dispute that assets in question is owned by the Corporate Debtor, Resolution Professional can take steps for taking possession of the assets of the Corporate Debtor. In the above case, this Tribunal had also noted one of the judgments relied by the Appellant. The submission of the Appellant that Resolution Professional has to file a suit to get eviction order was also considered and negated. In paragraphs 20 and 21, following was held:-*

"20. Accepting the contention of the Learned Counsel for the Appellant that RP is obliged to file a suit for eviction of the Appellant under MP Accommodation Control Act, 1961 even though lease in favour of the Appellant has expired shall be unduly prolonging the insolvency process which is a time bound process. When the Corporate Debtor has the ownership rights over the premises which premises can be taken in control by IRP/RP, we are of the view that for eviction of the Appellant especially in event when lease in favour of the Appellant has come to an end, filing a suit is not contemplated in the statutory scheme contained in IBC.

21. Thus, the contention of the Appellant that RP has to file a suit for eviction of the Appellant under the MP Accommodation Control Act, 1961 can not be accepted. We thus, in view of the foregoing discussions are of the considered opinion that Adjudicating Authority has rightly allowed the Application filed by the RP directing the Appellant to vacate from the premises so that Resolution Plan which has been approved can be implemented. We thus do not find any merit in the Appeal, the Appeal is dismissed."

17. The above judgment was also affirmed by the Hon'ble Supreme Court by its judgment and order dated 10.02.2023 in "Jhanvi Rajpal Automotive P. Ltd. vs. R.P. of Rajpal Abhikaran P. Ltd. & Anr.- 2023 SCC OnLine SC 1535".”

21. Further in paragraph 30, following was held:-

“30. In any view of the matter, the permission granted by the Corporate Debtor to occupy the premises shall be treated to have come to an end after winding up petition were initiated by the order of the Bombay High Court dated 05.10.2016 and liquidator was directed to take possession of the assets by the High Court and liquidator proceeded to premises on 04.06.2011 to take possession and symbolic possession was taken. After initiation of CIRP when the Resolution Professional has issued two notices to the Appellant to vacate, any permission to occupy the premises shall not continue and shall come to an end. Insofar as reliance of the Appellant on various registration including registration under MTNL, GST registration, Insurance Policy, shop registration are concerned, they were registrations obtained by the Appellant to carry out its business and the said registration in no manner help the Appellant to prove any kind of right in the premises. Registration

Certificate dated 01.01.2017 under Maharashtra Shop and Establishment Act 2017 was filed by the Appellant before the Bombay High Court. The said registration certificate in paragraph 3 clearly provided as follows:- ……"

22. The above judgment of this Tribunal was affirmed by the Hon'ble Supreme Court in Civil Appeal No.4499 of 2026 decided on 24.04.2026 by affirming the judgment and granting three months time to Appellant to vacate the premises. In the present case, the assets belong to the corporate debtor which is undisputed fact. After 1st meeting of the CoC held on 02.08.2024, Resolution Professional issued a notice on 04.10.2024 to Jasbir Singh Khangura, the Suspended Director who was residing in the premises to vacate."

31. In view of the foregoing discussions, we are of the view that view taken by the Adjudicating Authority that the Appellant cannot be allowed to continue to occupy the premises of the CD, after initiation of CIRP cannot be faulted. The Adjudicating Authority after considering all facts and circumstances has rightly allowed the application filed by the RP, i.e. IA(IBC)/2486(CH)/2024. There is no merit in the Appeal. The Appeal is dismissed. There shall be no order as to costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

29th May, 2026

Ashwani