

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT NEW DELHI
APPELLATE JURISDICTION
INTERLOCUTORY APPLICATION (IB) NO. _____ OF 2023
COMPANY APPEAL (AT) (INSOLVENCY) NO. 1243 OF 2022

IN THE MATTER OF:

MR. ASHOK GUPTA
SUSPENDED DIRECTOR OF
M/S AJNARA INDIA LIMITED

.... APPELLANT

VERSUS

MR. MANISH KUMAR GUPTA & ANR.
(AUTHORIZED REPRESENTATIVE FOR CLASS OF CREDITORS)


.... RESPONDENT(S)

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THROUGH COUNSEL

DATE: 22.07.2023
PLACE: New Delhi


Siddharth Bhatli / Khyati Jain
Chamber No. 103, Lawyers Chamber Block 1,
Delhi High Court, New Delhi.
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MEMO OF PARTIES

Mr. Ashok Gupta

Suspended Director of M/s Ajnara India Limited

Address: R/o. B-189, Yojna Vihar, Delhi-110092

Contact Number: 9810023852

Email: ashokajnara@gmail.com

....APPELLANT

VERSUS

Mr. Manish Kumar Gupta & ANR.

(AUTHORIZED REPRESENTATIVE FOR CLASS OF CREDITORS)

ADDRESS: R/o. A-1/538, Sector-6, Rohini, New Delhi-110085

Contact Number: 9990933804

Email: manish.bly@gmail.com

.... RESPONDENT(s)

AND IN THE MATTER OF:

MR. ASHOK GUPTA

SUSPENDED DIRETOR OF M/S AJNARA INDIA LIMITED

ADDRESS: R/O. B-189, YOJNA VIHAR, DELHI-110092

CONTACT NUMBER: 9810023852

EMAIL: ashokajnara@gmail.com

....APPELLANT

VERSUS

MR. MANISH KUMAR GUPTA

(AUTHORIZED REPRESENTATIVE FOR CLASS OF CREDITORS)

ADDRESS: R/O A-1/538, SECTOR 6, ROHINI, NEW DELHI-110085

CONTACT NUMBER: 9990933804

EMAIL: manish.bly@gmail.com

....RESPONDENT NO.1

MR. AMARPAL

INTERIM RESOLUTION PROFESSIONAL

IN THE MATTER OF AJNARA INDIA LIMITED

REGN NO. IBBI/IPA/-001/IP/P-01584/2018-19/12411

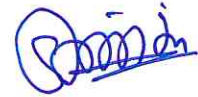
EMAIL: amarpal@icai.org

.... RESPONDENT NO. 2

THROUGH COUNSEL

DATE: 22.07.2023

PLACE: New Delhi



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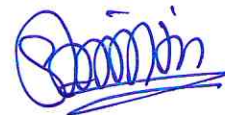
SYNOPSIS

That the present application has been filed by the appellant seeking appropriate directions from the Ld. Appellate Authority in furtherance of various developments post the orders of the Ld. Appellate authority and re commencement of construction from the personal funds infused by ex-promoters as well as proposal of interim finance which is pending consideration of this Hon'ble tribunal as well as under discussions between the lenders, IRP and promoters. It is respectfully submitted that instead of substantial developments and progress certain teething issues require urgent directions to keep the corporate debtor as a going concern and needs the liability of creditors as well as to hand over the homes to home buyers of corporate debtor. Hence, the present Application.

THROUGH COUNSEL

DATE: 22.07.2023

PLACE: New Delhi



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LIST OF DATES AND EVENTS

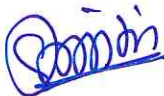
DATES	EVENTS
11.11.1991	The Corporate Debtor was incorporated
13.04.1992	The Corporate Debtor was converted into a Public Limited company
12.03.2009	The name of the Corporate Debtor was changed to Ajnara India Limited
15.09.2011	The Uttar Pradesh Government granted the permission to the District Magistrate and the Chief Executive Officer for transfer and lease of total 103 Khasra of revenue village Sorkha Jahidabad admeasuring the total area of 57.7600 Hectares vide their letter No.- U.O.-35-1-6-2011-3(NT)-11-O.Vi.-3
19.04.2012	Lease Deed of Group Housing Plot No. GHP-0001, Sector 118, Noida for the area of 1,33,750.00 Sq. Mtr was executed and registered in favour of 'IVR PRIME DEVELOPER (AVADI) PVT. LTD.'
03.12.2015 and 06.01.2016	The Uttar Pradesh Government granted the permission to the District Magistrate and the Chief Executive Officer for transfer and lease of total 103 Khasra of revenue village Sorkha Jahidabad admeasuring the total area of 57.7600 Hectares vide their letter No.- U.O.-35-1-6-2011-3(NT)-11-O.Vi.-3 dated 15.09.2011. But the Khasra Nos. vested in State Government and were falling in the said plot and in the approach / connecting road were not transferred till 06.01.2016 as mentioned in letter Nos.- Noida/Land/15/10564 dated 03.12.2015 and 657/D.L.R.C./2015-16 dated 06.01.2016 and farmers were cultivating there up on till then.
20.09.2022	Impugned order dated 20.09.2022 passed by the Ld. National Company Law Tribunal, Bench II, New Delhi in IB No. 194 (ND) of 2021 titled as 'Mr. Manish Kumar Gupta & Ors. v. M/s Ajnara India Limited', wherein the Ld. Adjudicating Authority has erred in admitting the Section 7 Petition.
17.10.2022	Order passed by the Hon'ble National Company Appellate Tribunal in Company Appeal (AT) (Ins) 1243 of 2022
09.01.2023	Order passed by the Hon'ble National Company Appellate Tribunal in Company Appeal (AT) (Ins) 1243 of 2022

11.01.2023	Order passed by the Hon'ble National Company Appellate Tribunal in Company Appeal (AT) (Ins) 1243 of 2022 to keep corporate debtor as going concern. The directions will allow to meet the liability of the creditors as well as to expeditiously hand over homes to the homebuyers of corporate debtor.
	Hence, the present application.

THROUGH COUNSEL

DATE: 22.07.2023

PLACE: New Delhi



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.... RESPONDENT(S)

APPLICATION FILED ON BEHALF OF THE APPELLANT SEEKING FURTHER

DIRECTIONS

MOST RESPECTFULLY SHOWETH:

1. It is stated that the present Application is being filed on behalf of the appellant Mr. Ashok Gupta Suspended Director of M/s Ajnara India Limited ("Applicant") under Rule 11 of the national Company Law Appellate Tribunal Rules, 2016 in Company Appeal (AT) (Ins) 1243 of 2022 ("captioned Appeal") seeking further directions from the Hon'ble Appellate Tribunal and to issue appropriate directions in the matter and to Mr. Amarpal, Resolution Professional of Ajnara India Limited.
2. It is stated that the captioned Appeal is pending adjudication before this Hon'ble Appellate Authority pertaining to the ongoing Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor.
3. It is pertinent to mention herein that during the course of appeal the Hon'ble Tribunal has vide order dated 11.01.2023 directed the IRP to complete the construction work with the co-operation of the appellant and in compliance of the same, the appellant has undertaken various steps for completion of the construction of the work. The home buyers have also expressed interest as their project also require to be completed on orders of the tribunal under supervision of the IRP. The copy of order dated 11.01.2023 is attached as **Annexure- 1**.

“Considering the aforesaid, we direct in continuation of the Order dated 17.10.2022 and 09.01.2023 as under:

a. The IRP shall continue with other projects of the Corporate Debtor with the cooperation of the ex-management, its employees and officers;”

4. That the appellant has made considerable efforts towards development and completion of the projects and to deliver units of the home buyers under this arrangement. The following arrangements have been made:

a) Infusion of funds

Approximately a sum of Rs. 23 crores have been arranged in form of funds and stock and materials as an interim funding towards the company's construction and overhead expenses to maintain the going concern.

b) Term sheets

The appellant has proposed funders who are ready to infuse monies into the projects which will further help in repayment of the lenders and to meet the construction cost of the projects, expediting the delivery of units to the home buyers. The appellant is waiting for the in principal approval from the lenders to materialise the discussions with various financiers including SBI Cap Ventures (Swamih fund), Experion Capital, and ors.. A DM partner has also been proposed by the appellant to ARCIL during discussion as the same was sought as an option by said lenders. The above are pending for relevant consent and approval and expediting the same will ensure time bound completion of project and continuous payment to creditors. The discussions are ongoing and we hope ARCIL will expedite the process.

c) Construction

The appellant has appointed and deployed various contractors along with consultants such as principal architects, structure designers, landscape architects, mechanical etc. across all the projects of Ajnara India Limited to co-ordinate in speeding up the construction work except Ajnara Sport city project which as the matter is sub-judice before High court (Lucknow

Bench) since Pre-CIRP stage. Despite the persisting teething problems, the appellant has successfully completed construction work of approximately Rs. 23 Crores. Further the IRP has accorded his consent to construction plan of project fragrance as proposed by Ex management of corporate debtor.

d) Offer of Possession

The appellant has offered possession of 280 units to the home buyers and are in process of offering 140 units approx.. to the home buyers. A policy for handing over the possession has been formalised in discussions with IRP for smooth possessions and the same has been circulated to the home buyers of project Panorama..

e) Funds

The bank accounts for all the projects have been made operational as per RERA guidelines. The blocked funds of the pre-CIRP to the tune of Rs. 2.37 Crores are now available to be used for meeting construction costs and project expenses.

5. That the appellant has proposed a settlement plan in interests of the home buyers, construction of the projects and repayment of the lenders after discussions with various stakeholders who are ready to infuse interim funds for revival of the corporate debtor. The settlement plan will be subsequently filed along with an additional affidavit.
6. That a Status report has been filed by the IRP filing update of construction of work and update on steps taken by the IRP and the management etc. a reply to the status report of the IRP has been filed by the appellant.

7. Directions Sought from this Hon'ble Tribunal

That instead of all above efforts made by the appellant and much progress the relevant issues which requires consideration of the Hon'ble Tribunal remains ending owing to multiple intervention filed by lenders and home buyers raising their own individual issues, the said issues will ultimately be dealt with and resolved under the settlement plan. Therefore, the appellant is moving the present application seeking

urgent directions of the Hon'ble appellate tribunal to direct the IRP to undertake the following in order to fast track the efforts made by the appellant for settlement and to expediate construction work on site as the construction work at the project site is at high risk of halting due to shortage of funds and for bringing a settlement plan to be executed.

I. Term Sheets Infusing Funds

The appellant has arranged interim funds for the revival of the corporate debtor through some funders who have agreed to infuse funds. The appellant seeks liberty of the present tribunal to grant consent to the proposed funders to infuse funds into the corporate debtor after completing their due diligence so that the process of the construction can be expediated.

II. Raising of funds through Expression of Interests

The proposal of raising of interim funds through Expression of interest has already been agreed mutually by the parties through a joint meeting. The invitation of the said EOI as sought by the lenders to explore better funding terms has already been consented by the appellant but it is prayed that the invitation of the said EOI shall be directed to be taken in time bound manner to expediate the process of infusion of funds.

III. Sale of unsold units

- i. The construction of the projects of the corporate debtor have slowed down due to lack of positive cash flow which is a major concern and can cause further delay in delivering of units to the home buyers. The parties have also agreed to raising of funds through expression of interests for which the appellant has also given its consent. Since, the raising the funds through EOI is a lengthy process and the delays may further impact the project construction, the appellant is praying sale of some units (i.e. 235 units) out of the unsold units of respective projects at a rate higher than the mortgaged price which can further be verified by the IRP.

ii. The receivables from the sale of those units can be used as per RERA, where 70% of the funds will be solely used for construction cost of the project, the remaining 30% of the receivable can be used in proportion of 20:10 where 20% can be used to re-pay the lenders of the corporate debtor and the remaining 10% of the share can be used for meeting the CIRP/admin costs.

S. No.	Project Name	Total Units	Sold Units	Receivable from Sold Unit (in cr.)	Unsold Units	Likely Receivable of Unsold Units (in cr.)
1	Ambrosia Phase-I	1611	1240	165.26	371	265.53
2	Panorama Phase-I	1697	1218	104.50	479	190.02
3	Integrity Phase-II	811	723	55.21	88	36.67
Total Units		938				

IV. Infusion of interim funds already made by the appellant

The appellant has infused an amount of Rs. 23 crores approximately and has successfully completed construction work further delays in arrangement of the interim funds will halt the construction work therefore infusion of proposed interim funds and raising of funds by sale of unsold units will speed up delivering of homes to the home buyers and repayment of lenders.

9. It is stated that no prejudice shall be caused to any party if the present Application is allowed however, grave prejudice, irreparable loss and injury shall be caused to the Applicants and home buyers herein in case the present Application is not allowed by this Hon'ble Appellate Authority.
10. It is stated that the present application is being made bona fide and in the interest of justice.

PRAAYER

In view of the above-stated facts and circumstances, it is humbly and most respectfully prayed that this Hon'ble Appellate Authority may be pleased to:

- (a). Allow the present application of the Applicant seeking directions from the Hon'ble Appellate Tribunal.

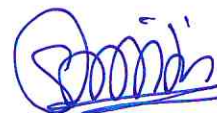
(b). Direct the IRP in accordance to expediate the construction work and infusion of the funds.

(c). Any other relief/reliefs which the tribunal may deem fit.

THROUGH COUNSEL

DATE: 22 07.2023

PLACE: New Delhi



Siddharth Bhatli / Khyati Jain

Chamber No. 103, Lawyers Chamber Block 1,

Delhi High Court, New Delhi.

Ph. No. +919899423924

E-Mail Id- office@lexlislaw.in

DECLARATION

The applicant above named hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original{s)/fair reproduction of the originals / true translation thereof.

Verified at Delhi on Delhi of 22^{July} 2023



COUNSEL FOR APPLICANT



APPLICANT

VERIFICATION

I, Mr. Ashok Gupta, S/o. Sh. Gyan Prakash Gupta aged about 55 years, Resident of B-189, Yojna Vihar Delhi-110095 Applicant do hereby verify that the contents of paras 1 to 10 are true to my personal knowledge/derived from the official record and that I have not suppressed any material facts.



COUNSEL FOR APPLICANT



APPLICANT

Date: 22/07/23

Place: New Delhi

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

AT NEW DELHI

IA NO. _____ OF 2023

IN

COMPANY APPEAL (AT) (INSOLVENCY) NO. 1243 OF 2022

IN THE MATTER OF:-

MR. ASHOK GUPTA

SUSPENDED DIRECTOR OF M/S AJNARA INDIA LIMITED

....APPELLANT

VERSUS

MR. MANISH KUMAR GUPTA & ANR.

(AUTHORIZED REPRESENTATIVE FOR CLASS OF CREDITORS)

....RESPONDENT(s)

AND IN THE MATTER OF:-

MR. ASHOK GUPTA

SUSPENDED DIRECTOR OF M/S AJNARA INDIA LIMITED

....APPLICANT

VERSUS

MR. MANISH KUMAR GUPTA & ANR.

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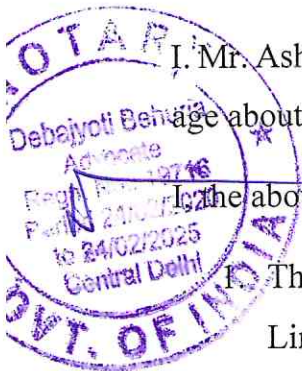
....RESPONDENT(s)

AFFIDAVIT

I, Mr. Ashok Gupta, S/o. Sh. Gyan Prakash Gupta. R/o. B-189, Yojna Vihar, Delhi-110092
age about 55 years.

In the above-named Applicant do hereby solemnly affirm and declare as under:

1. That the Applicant am one of the suspended managements of M/s Ajnara India Limited and is well conversant of the facts and circumstances of the case and is duly authorized to swear this affidavit.
2. That I have read and understood the contents of the present Intervention Application which has been drafted by the Counsel under my instructions
3. That the facts stated therein are true and correct to my knowledge based on the records,
4. That the annexures annexed with the application are original or the true copies of respective originals. I will produce the same whenever directed to do so.



5. That the contents whereof are not repeated for the sake of brevity and may be read as part and parcel of this affidavit. No part of it is false and nothing material has been concealed therefrom.

[Signature]

DEPONENT

VERIFICATION

The above-named deponent does hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

22 JUL 2023

Verified at Delhi on this 22 day of March 2023.

[Signature]
I Identified the deponent who
has signed in my presence.

[Signature]

DEPONENT

CERTIFIED THAT THE DEPONENT
Shri/Smt./Km.....
S/o, W/o R/o.....
Identified by Shri/Smt.....
Has solemnly affirmed before me at
Delhi on..... as St. No. 8132
that the contents of the affidavit which
have been read & explained to him/her
are true & correct to his/her knowledge

22 JUL 2023

NOTARY



**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 1243 of 2022

&

I.A. No. 3978, 4501, 4502, 4893 of 2022

IN THE MATTER OF:

**Ashok Gupta,
Suspended Director of Ajnara India Ltd.**

...Appellant

Versus

**Manish Kumar Gupta & Anr.
(Authorized Representative for Class of Creditors)**

...Respondents

Present:

For Appellant: Mr. Arun Kathpalia, Sr. Advocate with Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Lashita Dhingra, Advocate Heena Kochar, Mr. Kshitish Wadhwa, Advocates
Govind Keshav, Advocate in I.A. No. 4502
Advocate Joel, in I.A. No. 4893

For Respondent: Ms. Chetna Bisht, Advocate for Respondent- 1
Mr. Vishal Ganda, Ms. Sreemanti Mukherjee, Advocates
Mr. Bharat Bhushan, Mr. Niraj, Advocates for Home Buyers
Advocate V.D'Costa, Advocate Astha Ojha, for Intervenor in I.A. No. 3978

With

Company Appeal (AT) (Insolvency) No. 1365 of 2022

IN THE MATTER OF:

Tata Capital Housing Finance Ltd.

...Appellant

Versus

Manish Kumar Gupta & Anr.

...Respondents**Present:**

For Appellant: Advocate Sanjeev Singh, Advocate Pawan Upadhyay

For Respondent: Mr. Vishal Ganda, Ms. Sreemanti Mukherjee,
Advocates for RP

ORDER**11.01.2023: Company Appeal (AT) Ins. No. 1243 of 2022:**

1. Learned Counsel for the IRP submits that the Order dated 17.10.2022 and 09.01.2023 needs to be clarified as to whether other projects of the Corporate Debtor should proceed or should not proceed as per Interim Order dated 17.10.2022 and 09.01.2023.

2. Learned Counsel for the Appellant submits that in view of the Order of the Adjudicating Authority, all accounts have been frozen and hence the continuation of other projects got stopped. It is submitted that the most of the projects are on the completion and unless the projects are allowed to continue, the home-buyers shall suffer and financial creditor's debt shall also not be able to be serviced.

3. Considering the aforesaid, we direct in continuation of the Order dated 17.10.2022 and 09.01.2023 as under:

- a. The IRP shall continue with other projects of the Corporate Debtor with the cooperation of the ex-management, its employees and officers;

- b. The Accounts with regard to other projects which have been frozen, are permitted to be operated with the authorized signatory of the corporate debtor with counter signature of the IRP;
- c. The IRP shall maintain the accounts of expenses and incomes both;

4. Learned Counsel for the Appellant further submits that they shall convene meeting with the Financial Creditors in reference to their revised proposal which they have been submitted and after meeting with Financial Creditors shall submit a final proposal for consideration of the Court for which four weeks be allowed.

5. Considering the aforesaid, we adjourn the Appeal to **13th February, 2023**. With regard to I.As filed by the Intervenor, Appellant may file their Replies to the Applications before the date fixed. IRP before 10th February, 2023 shall submit a final status report giving status of the projects, details of the construction. Appellant shall also submit affidavit bringing on record the final proposals by 10th February, 2023.

Company Appeal (AT) Ins. No. 1365 of 2022:

6. In this Appeal, notice was issued on 16.11.2022. No reply has been filed. Learned Counsel appearing for the IRP prays for and allowed two weeks' time to file Reply-Affidavit. Rejoinder, if any, may be filed within two weeks, thereafter.

7. Mr. Arun Kathpalia, Sr. Advocate is permitted to file Intervention Application within one week.

List this Appeal on **07th February, 2023.**

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Basant/nn