

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 2085 of 2024 &
I.A. No. 7782 of 2024

IN THE MATTER OF:

Bhagwan Dass Arora

...Appellants

Versus

Ashish Singh

...Respondents

**Resolution Professional, In the matter of
Piyush Colonisers Ltd. (Under CIRP)**

Present:

For Appellant : Mr. Dilip Kr. Niranjana, Advocate.

**For Respondents : Mr. Abhishek Anand, Mr. Karan Kohli and Ms.
Palak Kalra, Advocates for RP.**

WITH

Comp. App. (AT) (Ins) No. 2090 of 2024 &
I.A. No. 7800 of 2024

IN THE MATTER OF:

Lokesh Arora

...Appellants

Versus

Ashish Singh

...Respondents

**[RP, In the matter of Piyush Colonisers
Ltd. (Under CIRP)]**

Present:

For Appellant :

**For Respondents : Mr. Abhishek Anand, Mr. Karan Kohli and Ms.
Palak Kalra, Advocates for RP.**

O R D E R

(Hybrid Mode)

09.12.2024: **I.A. No. 7782 of 2024**

This is an application praying for condonation of 15 days' delay in filing the appeal. The sufficient cause has been shown in paragraph 2(vi) of the application. Cause shown sufficient. Delay in filing the appeal is condoned.

Comp. App. (AT) (Ins) No. 2085 of 2024

This appeal has been filed by the appellant challenging the order of the Adjudicating Authority dated 07.08.2024 by which IA No. 884 of 2024 filed by the appellant has been decided. The appellant's case in the appeal is that appellant has invested amount in the corporate debtor and however no allotment letter was issued by CD in favour of the appellant. A settlement agreement entered between the parties on 03.10.2015 by which CD agreed to refund the amount and cheque of Rs.5,90,00,000/- and Rs.7,59,00,000/- drawn on Punjab National Bank was given to the appellant both the cheques were dishonoured and proceeding under Section 138 of Negotiable Instruments Act, 1881 has been initiated by the appellant against the corporate debtor which has been already decided in favour of the appellant. In the proceedings the appellant has filed claim which was accepted by Resolution Professional as financial creditor. When the plan came for consideration before the CoC an objection was raised as to why the appellant and others similarly situated persons are differentially treated. The RP has informed that the appellant has been accepted as financial creditor and he cannot be treated as financial creditor in class and thereafter the IA No. 884 of 2024 was filed praying for following reliefs:

- i. Direct the Respondent to accept the Claim filed by the Applicant in Form CA as a Creditor in class-homebuyer.*
- ii. To Pass any other or further order of any nature, direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*

2. The Adjudicating Authority did not accept the claim of the appellant. The Ld. Counsel for the RP submits that since no allotment was made in favour of appellant, appellant cannot be treated as creditor in class and his financial claim has already been admitted by RP.

3. After having heard the counsel for the parties and perusing the records we are of the view that admitted case of the appellant is that no allotment was issued by the CD in favour of appellant of any unit. The submission of appellant is that the amount was given for advance projects of the CD. Be as it may even if the amount was invested by the appellant for the future projects unless there is allotment in favour of the appellant he cannot be treated to be a financial creditor in a class. His amount has already been admitted by the RP as a financial creditor. We thus do not find any error in the order of the Adjudicating Authority in rejecting IA- 884 of 2024. Ld. Counsel for the appellant submits that appellant is entitled to raise objections to the approval of the resolution plan, the said issues is not before this Tribunal in this appeal and it is always open for the appellant to take such remedy as available in law.

With these observations, we dismiss the appeal.

Comp. App. (AT) (Ins) No. 2090 of 2024

This appeal is filed against the same order dated 07.08.2024 in IA No. 882 of 2024. The appellant also has invested the amount of Rs.1,60,00,000/- to the CD and has paid the amount in one go however inspite of the promise given by the CD no allotment letter was issued. The appellant was promised to give an allotment, the cheque was issued which was dishonoured hence the

appellant initiated proceedings under Section 138 of Negotiable Instrument Act in which the compensation has already been awarded of Rs.2,40,00,000/- which however has not yet been received by the appellant. Appellant filed a claim which was accepted as a financial creditor in the CIRP for an amount of Rs. 2,82,48,986/-. Appellant appearing in person submits that appellant has to be treated as financial creditor in class.

Mr. Abhishek Anand, counsel for the RP submits that facts of this appeal are similar to the earlier appeal CA (AT) (Ins) No. 2085 of 2024 and both are father and son and Adjudicating Authority did not commit any error in rejecting the IA No. 882 of 2024. For reasons given by us in our order CA (AT) (Ins) No. 2085 of 2024, we do not find any error in the order of Adjudicating Authority. This appeal is also dismissed with the above observations.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

harleen/NN