

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI**

(APPELLATE JURISDICTION)

COMPANY APPEAL (AT) (CH) (INS) NO. 94/2022

(IA No. 220/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the Impugned Order dated 01/02/2022 in
Inv.P/11/CHE/2021 in IA No. 460 of 2021 in IBA 1099/2019, passed by the
'Adjudicating Authority', National Company Law Tribunal, Chennai
Bench)**

In the matter of :

Giriraj Enterprises

1, Modibaug Commercial Ganeshkhind Road,
Shivajinagar, Pune – 411 016,
Maharashtra

Represented by its CEO

Mr. Prafulla Premchand Khinvasara

Email : prafulla@malpani.com

...Appellant

Versus

1. M/s Regen Powertech Private Ltd.,

Sivanandam Building,

No.1, Pulla Avenue,

Shenoy Nagar,

Chennai – 600 030

Tamil Nadu.

Email: info@regenpowertech.com

...Respondent No. 1

2. Mr. Ebenezar Inbaraj

Erstwhile Resolution Professional of

M/s. Regen Powertech Private Ltd.,

Having Office at

3rd Floor, 397, Precision Plaza,

Jayammal Road, Teynampet,

Chennai – 600 018, Tamil Nadu.

Email: ebiadvocate@gmail.com

...Respondent No. 2

3. Renew Power Services Private Limited

138, Ansal Chambers II,

Bhikaji Cama Place,

New Delhi – 110066

Email: info@renewpower.in

...Respondent No. 3

Present :

For Appellant : Mr. Abhijeet Sinha, Advocate

For Respondents : Mr. P.H. Arvindh Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate,
For R1, R2
Ms. Ranjana Roy, Advocate
For Ms. Shanmitha, Advocate, For R3

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 114/2022

(IA Nos. 269, 270 & 526/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the Impugned Order dated 01/02/2022 in IA No. 460 of 2021
in IBA 1099/2019, passed by the ‘Adjudicating Authority’, National
Company Law Tribunal, Chennai Bench)**

In the matter of :

GAIL (India) Limited,

SWAN, 323, Kodigehalli Main Road,

Sahakar Nagar, Bengaluru – 560 092.

...Appellant

Versus

Mr. Ebenzer Inbaraj,

Resolution Professional,

Regen Powertech Private Limited (RPPL)

No. 397, Precision Plaza,

No. 23, 3rd Floor, Anna Salai,

Teynampet, Chennai – 600018.

....Respondent

Present :

For Appellant : M/s. Giridhar & Sai, Advocates
For Respondents : Mr. P.H. Arvindh Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 118/2022

(IA No. 280/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the Impugned Order dated 01/02/2022 in IA No. 460 of 2021
in IBA 1099/2019, passed by the 'Adjudicating Authority', National
Company Law Tribunal, Chennai Bench)**

In the matter of :

Echanda Urja Private Limited,
Having its registered office at 618,
Makers Chambers V, Nariman Point
Mumbai - 400 021.

...Appellant

Versus

1. ReGen Powertech Private Limited

Acting through the RP Ebenezar Inbaraj,
397, Precision Plaza, No. 23, 3rd Floor,
Teynampet, Anna Salai, Chennai – 600 018

....Respondent No. 1

2. Committee of Creditors of

Regen Powertech Private Limited,
397, Precision Plaza, No. 23, 3rd Floor,
Teynampet, Anna Salai, Chennai – 600 018

...Respondent No. 2

3. Renew Power Services Private Limited

Resolution Applicant
Having registered office at 138, Ansal Chambers II
Bhikaji Cama Palace, New Delhi

....Respondent No. 3

Present :

For Appellant : Mr. Shri Venkatesh, Advocate
For Respondents : Mr. P.H. Arvinth Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate, For R1
Mr. Vipin Warriar, Advocate, For R2
Mr. Ranjana Roy, Advocate, For R3

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 72/2022

(IA No. 152/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the Impugned Order dated 01/02/2022 in
INV.P/6(CHE)/2021 in IA(IBC)/460/CHE/2021 in IBA 1099/2019, passed
by the ‘Adjudicating Authority’, National Company Law Tribunal,
Chennai Bench)**

In the matter of :

Regen Infrastructure and Services Pvt. Ltd.

Acting through the RP Renuka Devi Rangaswamy,
“Sivanandam”, 1st Floor, New No. 1,
Pulla Avenue, Shenoy Nagar, Chennai – 600 030

....Appellant

Versus

1. M/s Regen Powertech Private Ltd.,

Having its Registered Office at
Sivanandam, 1st Floor,
New No. 1, Pulla Avenue, Shenoy Nagar,
Chennai – 600 030

Email: Narayanan.sa@regenpowertech.com

.....Respondent No. 1

2. Mr. D. Ebenezar Inbaraj,

Erstwhile Resolution Professional of Regen Powertech Pvt. Ltd.,
397, Precision Plaza, No. 23, 3rd Floor,
Teynampet, Anna Salai,
Chennai – 600 018.

Email: ebiadvocate@gmail.com

.....Respondent No. 2

3. ReNew Power Services Private Limited,
138, Ansal Chambers II, Bhikaji Cama Place,
New Delhi – 110 066.
Email : info@renewpower.in

....Respondent No. 3

Present :

For Appellant : Mr. T.K. Bhaskar, Advocate

For Respondents : Mr. P.H. Arvindh Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate, For R1 & R2
Ms. Ranjana Roy, Advocate
For Ms. Shanmitha, Advocate, For R3

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 79/2022
(IA Nos. 160, 161, 223, 28 & 246/2022)
(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)
(Arising out of the Impugned Order dated 01/02/2022 in
IA(IBC)/460/CHE/2021 in IBA 1099/2019, passed by the ‘Adjudicating
Authority’, National Company Law Tribunal, Chennai Bench)

In the matter of :

Asset Reconstruction Company (India) Limited,
Having its registered office at:
The Ruby, 10th Floor, 20 Senapati Bapat Marg,
Dadar (West) Mumbai – 400028.
E-MAIL: rajesh.kumar@arcil.co.in

....Appellant

Versus

1. Mr. Ebenezar Inbaraj
Resolution Professional of Regen Powertech Private Limited,
397, Precision Plaza, No. 23, 3rd Floor, Teynampet,
Anna Salai, Chennai – 600018.
E-MAIL: regenpowercirp@gmail.com

....Respondent No. 1

2. ReNew Power Services Private Limited, Represented by
Its Directors, having its Corporate Office at Renew Hub
Commercial Block – I, Sone 6, Golf Course Road,
OCF City Phase – V, Gurugram, Haryana – 122009.
(Amended as per Order dated 21/03/2022 in IA 223/2022)

....Respondent No. 2

Present :

For Appellant : Mr. E. Om Prakash, Sr. Advocate
Mr. V.V. Sivakumar, Advocate

For Respondents : Mr. P.H. Arvindh Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate
Ms. Ranjana Roy, Advocate
For Ms. Shanmitha, Advocate, For R2

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 93/2022
(IA No. 215/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

(Arising out of the Impugned Order dated 01/02/2022 in
INV.P/6(CHE)/2021 in IA(IBC)/460/CHE/2021 in IBA 1099/2019, passed
by the ‘Adjudicating Authority’, National Company Law Tribunal,
Chennai Bench)

In the matter of :

L&T Infra Investments Partners,
4th Floor, Brindavan, Plot No. 177,
Viudyanagar Marg, CST Road, Kalina Santa Cruz (E),
Mumbai – 400 098.
Rep by its authorised signatory
Mr. Vijayaraj

....Appellant

Versus

- 1. ReGen Powertech Private Limited,**
Acting through Resolution Professional Mr. Ebenezar Inbaraj
Sivanandam Building, No. 1, Pulla Avenue,
Shenoy Nagar, Chennai – 600030. **....Respondent No. 1**
- 2. The Committee of Creditors,**
Of Regen Powertech Private Limited,
Sivanandam Building, No.1, Pulla Avenue,
Shenoy Nagar, Chennai – 600030. **.....Respondent No. 2**

3. Renew Power Services Private Limited,
138, Ansal Chambers II, Bhikaji Cama Place,
New Delhi - 110022.

....Respondent No. 3

Present :

For Appellant : Mr. V. Prakash, Sr. Advocate
M/s. Cibi Vishnu & Mr. P. Giridharan, Advocates

For Respondents : Mr. P.H. Arvinth Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate, For R1
Ms. Ranjana Roy, Advocate
For Ms. Shanmitha, Advocate, For R3

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 131/2022

(IA No. 311/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

(Arising out of the Impugned Order dated 01/02/2022 in
IA(IBC)/736/CHE/2021 in IA(IBC)/460/CHE/2021 in IBA 1099/2019,
passed by the ‘Adjudicating Authority’, National Company Law Tribunal,
Chennai Bench)

In the matter of :

L&T Infra Investments Partners,
4th Floor, Brindavan, Plot No. 177,
Viudyanagar Marg, CST Road, Kalina Santa Cruz (E),
Mumbai- 400 098.

Rep by its authorised signatory, Mr. Vijayaraj

...Appellant

Versus

1. RegGen Powertech Private Limited,
Acting through Resolution Professional Mr. Ebenezar Inbaraj
Sivanandam Building, No. 1, Pulla Avenue,
Shenoy Nagar, Chennai – 600030.

....Respondent No. 1

2. Regen Infrastrucure and Services Pvt. Ltd.
Acting through Resolution Professional
Smt. Renuka Devi Rangasamy,
Aarthi Illam, 9, Jothi Nagar, 3rd Street,
Uppilipalayam (PO), Coimbatore 641 015.

...Respondent No. 2

Present :

For Appellant : Mr. V. Prakash, Sr. Advocate
M/s. Cibi Vishnu & Mr. P. Giridharan, Advocates
For Respondents : Mr. P.H. Arvindh Pandian, Sr. Advocate,
For Mr. A.G. Sathyanarayana, Advocate, For R1

WITH

COMPANY APPEAL (AT) (CH) (INS) NO. 132/2022

(IA No. 312/2022)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the Impugned Order dated 01/02/2022 in
MA(IBC)/33/CHE/2021 in IBA 1099/2019, passed by the ‘Adjudicating
Authority’, National Company Law Tribunal, Chennai Bench)**

In the matter of :

L&T Infra Investments Partners,

4th Floor, Brindavan, Plot No. 177,

Viudyanagar Marg, CST Road, Kalina Santa Cruz (E),

Mumbai – 400 098.

Rep by its authorised signatory

Mr. Vijayaraj

....Appellant

Versus

ReGen Powertech Private Limited,

Acting through Resolution Professional Mr. Ebenezar Inbaraj

Sivanandam Building, No. 1, Pulla Avenue,

Shenoy Nagar, Chennai – 600030.

...Respondent

Present :

For Appellant : Mr. V. Prakash, Advocate

For Respondent : Mr. P.H. Arvindh Pandian, Sr. Advocate
For Mr. A.G. Sathyanarayana, Advocate

J U D G M E N T

(Physical Mode)

[Per: Shreesha Merla, Member (Technical)]

1. Succinctly put, the Learned Counsels for the Appellants in these ‘Appeals’ vociferously argued that the objections raised by them were never addressed to

by the ‘Adjudicating Authority’, specifically, regarding violation of Section 31(4) of the Code; violation of statutory undertaking given by the Corporate Debtor to the Ministry of New and Renewable Energy; the objection that the Plan is prejudicial to ‘Public Interest’ and that the Resolution Professional of RPPL had hastily convened the CoC Meeting, coinciding with the date of the Report of the Mediator. It is also further argued by the Learned Senior Counsel, Mr. Abhijeet Sinha that there were serious violations of the Provisions of Section 30 (2) of the Code as the mandatory approval of the ‘Competition Commission of India’ has not been taken by the ‘Successful Resolution Applicant’ (“SRA”), prior to approval of the Plan, and that some of the Creditors have not been treated as ‘Financial Creditors’, as their Applications filed seeking for such directions have been kept pending and were taken up by the ‘Adjudicating Authority’ only after the approval of the Plan. The Learned Senior Counsel Mr. V. Prakash, appearing for ‘L&T Infra Investment Partners’, contended that L&T had submitted their Claim on 27/12/2019 and at that point of time as the ‘Law’ did not allow filing of Claims in both the CIRPs, the Claim against RPPL was withdrawn on 11/03/2020 and submitted subsequent to the view taken by this Tribunal on 8/12/2020. However, MA 33/2021 filed on 23/03/2021 was not decided till 15/03/2022 and was thereafter, dismissed as infructuous. The Learned Sr. Counsel Mr. T.K. Bhaskar brought to the notice of the Bench, the various objections raised by the Appellants to the approval of the Plan and further contended that these objections were not adjudicated by the ‘Adjudicating Authority’, erroneously on the ground

that ‘Consolidation’ itself was rejected. Briefly put, the Learned Counsels Mr. P.H. Arvinth Pandian, Mr. A.G. Sathyanarayana appearing for the Respondents and the Learned Counsel Ms. Ranjana Roy appearing for the SRA vehemently contended that the ‘Adjudicating Authority’, was justified in approving the ‘Resolution Plan’.

2. Needless to add, as ‘Consolidation’ has already been allowed by this Tribunal, consequently, the approval of the Resolution Plan is set aside. However, it is open to the Resolution Applicant to submit a Consolidated Plan, if so desired, before the CoC for approval and the Consolidated CoC shall proceed in accordance with ‘Law’. Having regard to the fact that considerable time has been lost, and that IBC is a time bound process, it is requested that the ‘Adjudicating Authority’ shall complete the process as expeditiously as practicable and as provided for under the ‘Code’. It is made clear that this Tribunal has not given any findings on whether prior approval of the ‘Competition Commission of India’ is necessary under the ‘Competition Act, 2002’, to be taken by the ‘Resolution Applicant’; whether there were any violations of the Provisions of Section 30(2) (e) of the Code; whether process under Section 61 (3) has been given a go-by or whether all the Stakeholders’ interests have been taken care of. To reiterate, this Tribunal has not expressed any view on the merits of the Resolution Plan or made any observation regarding the conduct of the Resolution Professional.

3. In view of the Judgment rendered in Company Appeal (AT) (CH) (Ins) Nos. 323/2021, 96/2022, 334/2021, 335/2021, 340/2021, 06/2022, 104/2022, 328/2021 & 88/2022, allowing ‘Consolidation of Corporate Insolvency Resolution Process’ of both RPPL and RISPL, the Company Appeal (AT) (CH) (Ins) Nos. 94/2022, 114/2022, 118/2022, 72/2022, 79/2022, 93/2022, 131/2022 and 132/2022 are ‘allowed’ to the extent of setting aside the Resolution Plan only. All other contentions are kept open.

4. For all the foregoing reasons, the Company Appeal (AT) (CH) (Ins) Nos. 94/2022, 114/2022, 118/2022, 72/2022, 79/2022, 93/2022, 131/2022 & 132/2022 are ‘allowed’ and the Impugned Order dated 01/02/2022 in Inv. P/11/CHE/2021 in IA No. 460/2021 in IBA 1099/2019, Inv. P/6/CHE/2021 in IA No. 460/2021 in IBA 1099/2019, MA/677/2021 in IBA/1099/2019, IA(IBC)/736/CHE/2021 in IA(IBC)/460/CHE/2021 in IBA/1099/2019 and MA(IBC)/33/CHE/2021 in IBA/1099/2019 is set aside. All connected pending Interlocutory Applications, if any, are ‘closed’.

[Justice M. Venugopal]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

31/08/2023
SPR/TM