

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No.500 of 2025

IN THE MATTER OF:

Gagan Tandon & Ors

...Appellants

Versus

IL & FS Financial Services Ltd. & Ors.

...Respondents

Present:

For Appellants : Mr. Abhijeet Sinha, Sr. Advocate with Mr. M. P. Sahay, Ms. Yaman Verma and Ms. Chitra Chanda, Advocates.

For Respondents : Mr. Gopal Jain, Sr. Advocate with Mr. Satendra K. Rai, Ms. Ruchika Darira, Mr. Pareesh Virmani and Ms. Suvarna, Advocates for R-1.

Mr. Abhishek Anand, Mr. Karan Kohli and Ms. Palak Kalra, Advocates for RP.

Mr. Arijit Prasad, Sr. Advocate with Mr. Ritesh Agrawal and Ms. Priyanshi Sharma, Advocates for Awas Vikas.

Mr. Bishwaji Dubey, Mr. Thakur Ankit Singh, Mr. Anjit Dwivedi and Ms. Shristy Singh, Advocates for Intervenors.

Mr. Sanjeet, AR for R-3.

Mr. Vedlamani Seshagiri and Ms. Ananya Kukreti, Advocates UP RERA in I.A. No. 2264/2025.

With
Company Appeal (AT) (Insolvency) No. 502 of 2025 &
I.A. No. 1922, 2249, 2254, 2255, 2256 of 2025

(Arising out of Order dated 25.02.2025 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-IV in CP No.: IB 558(ND)/2024)

IN THE MATTER OF:

Pranav Ansal

...Appellant

Versus

IL & FS Financial Services Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Sumant Batra, Ms. Neeha Nagpal, Mr. Sarthak Bhandari, Mr. Malak Bhatt, Ms. Nidhi Yadav and Mr. Nikunj Mahajan, Advocates.

Mr. Karmveer and Mr. Kumar Abhishek, Advocates for Applicant in I.A. No.2252 of 2025.

For Respondent : Mr. Gopal Jain, Sr. Advocate with Mr. Satendra K. Rai, Ms. Ruchika Darira, Mr. Pareesh Virmani and Ms. Suvarna, Advocates for R-1.

Mr. P. Nagesh, Sr. Advocate with Mr. Akber Ahmed and M. Shaz Khan, Advocates for Intervenor in I.A. No. 2251/2025.

Mr. Anshul Sharma, Advocate for Homebuyer.

Mr. Abhishek Anand, Mr. Karan Kohli and Ms. Palak Kalra, Advocates for RP.

Mr. Saniv Kumar Dubey, Sr. Advocate with Mr. Abhishek Chaudhary, Advocate for Lucknow Development Authority in I.A. No.2249 of 2025.

Mr. Shahrukh Khan, Advocate for LDA.

Mr. Abhishek Chaudhary, Advocate for Bulandshahr Khurja Dev Authority in I.A. No.2254 of 2025) and Agra Development Authority in I.A. No. 2255 of 2025 and Ghaziabad Development Authority in I.A. No.2255 of 2025.

Mr. Puneet Singh Bindra, Ms. Charu Modi, Mr. Rishabh Gupta and Ms. Kriti Dang, Advocates.

Mr. Bishwajit Dubey Ms. Aishwarya Singh, Mr. Ankit Singh and Mr. Prakhar Dixit, Advocates for Intervenors (Homebuyers).

O R D E R
(Hybrid Mode)

25.04.2025: These two Appeal(s) have been filed challenging order passed by National Company Law Tribunal, New Delhi, Court-IV admitting Section 7 Application filed by IL&FS Financial Services Ltd. Against M/s. Ansal Properties and Infrastructure Ltd. Company Appeal

(AT) (Ins.) No.500 of 2025 has been filed by Gagan Tandon & Ors, Homebuyers in a Project of the Corporate Debtor (“**CD**”), i.e. Sushant Golf City, Hi-Tech Township, challenging order admitting Section 7 Application dated 25.02.2025. Company Appeal (AT) (Ins.) No.502 of 2025 has filed by a Suspended Director of the CD, challenging order dated 25.02.2025 admitting Section 7 Application.

2. Brief facts of the case leading to filing of Section 7 Application by IL&FS Financial Services Ltd. are:

- i. M/s. Ansal Properties and Infrastructure Ltd., the CD is a Company registered in 1967 and is a leading infrastructure Company in India. IL&FS Financial Services Ltd. granted a Term Loan Facility of Rs.50 crores on 16.02.2016 to the CD. Loan Agreement dated 18.03.2016 was also entered between IL&FS Financial Services Ltd. and the CD. Another Term Loan of Rs.100 crores was also sanctioned and a Loan Agreement dated 25.11.2016 was entered. The amounts under the above two Agreements were disbursed between 2016 and 2017. The CD out of Rs.150 crores, utilised an amount of Rs.83.24 crores in Project of Phase-II of the Township located at Lucknow.
- ii. The Financial Creditor issued a notice on 17.10.2017, calling upon the CD to rectify the breaches. The Financial Creditor filed a Section 7 Application, being C.P. (IB) No.1649/ND/

2019 to initiate Corporate Insolvency Resolution Process (“**CIRP**”).

- iii. During the pendency of above C.P. (IB) No.1649/ND/ 2019, a settlement took place between the parties and the Financial Creditor withdrew the petition on 27.04.2021 with liberty to file a fresh petition, if settlement fails. The CD offered a settlement proposal to the Financial Creditor. The offer of settlement of Rs.109.66 crores, which settlement was also approved by NCLT Mumbai Bench-I in CP(IB) No.3638/MB/2018. Pursuant to which Rs.5 crores were paid and discussions took place between the parties regarding payment of balance amount.
- iv. A proposal was submitted by the CD for payment of total amount of Rs.111.36 crores, which was accepted by Financial Creditor. The amount was to be paid by 31.03.2024. However, the CD could pay the amount of Rs.28.36 crores as on 31.03.2024 and prayed for extension of time for payment of balance amount till 30.09.2024. The Financial Creditor rejected the request for extension of time by letter dated 13.05.2024. By a letter dated 13.05.2024, CD was called upon to pay Rs.257.43 crores. A Company Petition – CP IB No.558/2024 was filed by IL&FS Financial Services Ltd. on 06.08.2024 in which notices were issued. The CD filed the reply, to which rejoinder was also filed.

- v. Shri Gagan Tondon and other Homebuyers filed Applications seeking intervention in Section 7 Application being Intervention Petition No.43/ND/2024 in November 2024.
 - vi. The Adjudicating Authority by the impugned order dated 25.02.2025 rejected the Intervention Application filed by the Homebuyer and by the order dated 25.02.2025 admitted Section 7 Application. Aggrieved by which orders, these Appeal(s) have been filed.
3. We have heard Shri Abhijeet Sinha, learned Senior Counsel appearing for the Appellant in Company Appeal (AT) (Ins.) No.500 of 2025; Shri Sumant Batra, learned Counsel appearing for the Appellant in Company Appeal (AT) (Ins.) No.502 of 2025; and Shri Gopal Jain, learned Senior Counsel appearing for IL&FS Financial Services Ltd.
4. Several Intervention Applications have been filed in the Appeal(s). IA No.2249 of 2025 has been filed by Lucknow Development Authority, seeking intervention; IA No.2255 of 2025 has been filed by Agra Development Authority and IA No.2254 of 2025 has been filed by Bulandshahr Khurja Development Authority in Company Appeal (AT) (Ins.) No.502 of 2025. In Company Appeal (AT) (Ins.) No.500 of 2025, IA No.2264 of 2025 has been filed by Uttar Pradesh Real Estate Regulatory Authority; and IA No.2261 of 2025 has been filed by UP Awas Evam Vikas Parishad. Various Homebuyers – Arbind Kumar Mishra & Ors. have also filed IA No.2252 of 2025 and IA No.2251 of 2025 by Neha Singh & Ors.

5. Learned Counsel for the Homebuyers challenging the order of admission of Section 7 Application submits that in the present case, the Sushant Golf City, Hi-Tech Township was being developed by the CD under the MoU and the Joint Development Agreement entered between the CD and the State of UP (India), under the Hi-Tech Township Policy of the State of UP (India), 2003 as revised in 2007, the license was granted for carrying out the Project, which Project consist of large number of Homebuyers and admission of Section 7 Application shall adversely affect the ongoing Projects. It is submitted that there are several Projects of the CD spread over in different cities and insolvency commencement covering different Projects situated in different part of the Country is not justified. It is submitted that CIRP against the CD was initiated on 16.11.2022 in CP(IB)-297(ND)/2023, which confined to one Project namely – Serene Residency Group Housing Project situated at Greater Noida and there was also a Project in the name of The Fernhill situated at District Gurgaon, Haryana, where also the CIRP was directed to be confined to it only. In both the above CIRPs, Resolution Plans have been approved by the CoC. The initiation of CIRP against such magnitude of Projects, shall cause great prejudice to the Homebuyers, who runs in several thousands in different Projects. The Adjudicating Authority without advertng to all relevant facts, has admitted Section 7 Application. The mere fact that ‘debt’ and ‘default’ is there of the Financial Creditor, it shall not automatically lead for admission. The Projects are being constructed by the CD as developer under the Hi-Tech Township with Scheme of the State of UP (India), with respect to which the MoU was entered as early as

in the year 2005 and there has been various development in the Projects and at this stage when Projects are at an advanced stage, CIRP shall cause immense prejudice. It is submitted that the Project - Sushant Golf City, Hi-Tech Township needs to be excluded from the CIRP.

6. Learned Counsel for the Appellant appearing in Company Appeal (AT) (Ins.) No.502 of 2025 submits that CD is a solvent Company and is able to discharge its debt and as per the Settlement Agreement between the parties, amount of Rs.83 crores was only due. The CD has made payment of Rs.28.36 crores and the CD asked for extension of time for payment of entire amount, which was denied. The CD is fully competent and interested in completing all the Projects. It is submitted that at best the CIRP should be confined to Sushant Golf City, Hi-Tech Township, Lucknow and it may not encompass various Projects situated in different cities in the State of UP.

7. Learned Counsel for the various Development Authorities of different cities in the State of UP filed Intervention Applications. It is sufficient to notice the facts pleaded in one of the IAs, i.e. IA No.2249 of 2025 filed by Lucknow Development Authority ("**LDA**"). The case of the Intervenor in the Application is that LDA is a statutory Authority constituted under the U.P. Urban Planning & Development Act, 1973. It is submitted that State of UP on account of upsurge in the population in urban areas, formulated a policy for private capital investment for development of Hi-Tech Township in Uttar Pradesh, which Policy was circulated on 22.11.2003, which was subsequently revised by

Government Order dated 16.08.2007. Under the Policy, the Development Authority was to provide land to the Developer under the Land Acquisition Act, 1894. The Developer was also to obtain land by direct purchase. The State was also entitled to provide land after resuming the land from different Gram Sabha under the U.P. Zamindari Abolition and Land Reforms Act, 1950. It is submitted that an MoU was entered between the CD and the Development Authority. First MoU was entered in 26.11.2005 between the LDA and CD and thereafter Development Agreements were entered between the LDA and CD including several Development Agreements carrying out various construction of Hi-Tech city. The State Government also provided land by acquiring the land. The land was also acquired by LDA and handed over to the CD for carrying out the Township. The debt on the CD of the LDA dues is Rs.4490 crores. A claim in Form-C has already been filed by the LDA dated 11.03.2025. The LDA is also a Secured Creditor and various Mortgage Deeds have been executed by the CD in favour of the LDA under various MoUs as well as Development Agreements. The LDA is entitled to retain transfer rights of 25% of saleable lands. It was further submitted that if the CD leaves any development work incomplete, the same is required to be completed by LDA through sale of land, so retained. Clause-8 of the Development Agreement dated 18.11.2006 has been relied by the LDA, which is as follows:

“Performance Guarantee : to ensure timely completion of the project as per the provisions of approved DPR, the First Party shall retain the transferable rights on 25 percent of total saleable land, which shall be released in proportion to the Second Party on

successful completion of various services to the functional stage. If the Second Party leaves any development work incomplete, the same shall be completed by the First Party through sale of the land so retained.”

8. It is submitted that Application filed under Section 7 is malicious application and the CD, who is fully able to discharge the debt has also join hands with the Financial Creditor in initiation of CIRP. The LDA has provided land of thousand acres to CD for development of Hi-Tech Township. The Detailed Project Report has also been approved and the same has also been sanctioned. Various Mortgage Deeds has also been executed in favour of the CD to the extent of 424.4035 acres. The CD has not made the payments for various land acquired and resumed parcels of land. The city development charges are also leviable on the CD, which has not been paid.

9. Other learned Counsel for the Intervenors have also made similar submissions contending that admission of CIRP shall cause immense prejudice to the Homebuyers in getting their Units. It is submitted on behalf of the Homebuyers that in event CIRP proceeds, the Project - Sushant Golf City, Hi-Tech Township be excluded. It is submitted on behalf of the Intervenors and Homebuyers that in the present case, Projects of the CD are situated in various cities of UP and Suspended Director of the CD, having expressed his willingness to complete the Projects, the CD can be resolved by Project-wise Resolution/ reverse CIRP mechanism. Learned Counsel for the Appellant has also referred to the judgment of this Tribunal in ***Flat Buyers Association Winter Hills-77***

vs. Umang Realtech Pvt. Ltd. – Company Appeal (AT) (Ins.) No.926 of 2019. It is submitted that in two CIRPs, which had commenced against the CD were confined to individual Project, i.e. Fernhill Project situated at Gurgaon and Serene Residency Group Housing Project situated at Greater Noida.

10. Shri Gopal Jain, learned Senior Counsel appearing for the IL&FS Financial Services Ltd. refuting the submissions of learned Counsel for the Appellant(s) submits that the facility which was granted by IL&FS was with regard to the entire Projects of the CD and was not confined to the Lucknow Project. Hence, the prayer for initiation of CIRP, confining to Lucknow Project, cannot be accepted. It is submitted that the Loan Agreement clearly provides for sanction for all Projects. Learned Counsel for the IL&FS Financial Services Ltd. has referred to the Loan Facility Agreement and Loan Agreement, which are part of the record. It is further submitted that the settlement, which was accepted by the IL&FS was not honoured and out of the amount of Rs.111.36 crores, only an amount of Rs.28 crores was paid. It was contemplated that on breach of settlement, the entire amount shall become due, hence, the total amount called upon the CD to make was Rs.257,43,12,692/-. It is submitted that the CD has not even denied the fact that it has submitted a settlement proposal itself and has acknowledged the debt. It is submitted that under Section 7 proceedings, the Adjudicating Authority has only to find out as to whether there is 'debt' and 'default'. The present is a case where 'debt' and 'default' is proved. Hence, the Adjudicating Authority has rightly

admitted Section 7 Application, which need no interference in the present Appeal.

11. We have heard learned Counsel for the parties on 17.04.2025 in the Appeal as well as Application for interim relief. By our order dated 26.03.2025, we directed following:

“26.03.2025: This appeal has been filed against the order initiating CIRP on 25.02.2025. Shri Gopal Jain appears for the IL&FS Financial Services Ltd/ Financial Creditors. Ld. Counsel for the Lucknow Development Authority and other Development Authorities submits that they have also stake in the matter and they should be permitted to intervene. Ld. Counsel appearing for Homebuyer also seeks liberty to file an intervention application. We permit Lucknow Development Authority and other Development Authorities as well as Homebuyers to file an intervention application along with affidavit within a week from today.

Shri Gopal Jain, counsel appearing for IL&FS Financial Services Ltd. may file Reply to the appeal within two weeks.

Company Appeal (AT) (Ins) No. 500 of 2025

Shri Gopal Jain, Counsel appears for the IL&FS Financial Services. Reply, if any, be filed before the next date. Intervention application be served on both Appellant as well as IL&FS Financial Services.

List these appeals on 15.04.2025 for admission/ disposal.”

12. In these two Appeal(s), the order under challenge is an order admitting Section 7 Application filed by the Financial Creditor - IL&FS Financial Services Ltd.. As noted above, various Intervention Applications have been filed in these Appeal(s), which include the Applications filed by different Development Authorities, the UP Awas Evam Vikas Parishad, UP-RERA and the Homebuyers. Some Homebuyers have filed the

Applications before the Adjudicating Authority for intervention, which was rejected. The facts, which have been brought on the record by the Intervenors, specially Development Authorities, indicate that the CD with different Development Authorities has entered into MoU(s) and Development Agreements. The Development Authorities have provided land by acquiring land under the Land Acquisition Act as well as U.P. Zamindari Abolition and Land Reforms Act, 1950, which lands were handed over to the CD for implementing the Hi-Tech Township as per the policy of the State Government. In the Development Agreements entered with Lucknow Development Authority, there was clause, which we have already noticed above, which provided that if the CD being unable to carry out the Project, the Development Authority shall complete the Project with regard to 25% land under the Project and performance guarantee has been given by the CD and in event the Project is not completed, the Development Authorities are entitled to sale 25% of total saleable land. We have already noted Clause-8 of Development Agreement on 18.11.2016 above.

13. Insofar as two CIRPs, which had commenced against the CD with regard to two separate Projects, i.e. Fernhill Project, Gurgaon and Serene Residency Group Housing Project at Greater Noida, the CIRP against the CD have been confined to the said Projects, which is apparent from the orders passed by the NCLT placed before us. Learned Counsel appearing for the Appellant in Company Appeal (AT) (Ins.) No.502 of 2025 has submitted that the said two Projects be kept out of the present CIRP, since for those Projects, separate CIRP(s) have been initiated and now

have been completed by approval of the Plan by the CoC. We, thus, are of the view that the Project Fernhill and Serene Residency Group Housing with regard to which separate CIRP(s) have been initiated, in which Plans have been approved, shall be kept out of the present CIRP. We direct accordingly.

14. With regard to the submissions of the Appellant(s) and the Homebuyers that Resolution of the CD can be achieved only by Project-wise Resolution or by adopting reverse CIRP, the said submissions need to be considered after pleadings are exchanged between the parties. Learned Counsel for the LDA, further submitted that although the LDA has filed its claim as a Financial Creditor by submitting claim in Form-C, but LDA has not been included in the Committee of Creditors (“**CoC**”) and it is submitted that it has been only informed to participate in the Meetings of the CoC as an Observer. Learned Counsel for the LDA submitted that LDA is a Financial Creditor and also a Secured Creditor of the CD. Similar submissions have been raised on behalf of other Development Authorities, who claimed to be Financial Creditors and Secured Creditors of the CD.

15. The CoC having been constituted, we are of the view that with regard to issue that LDA and other Development Authorities are Financial Creditors/ Secured Creditors, the Development Authorities have to file an appropriate Application before the Adjudicating Authority. We grant the liberty to all Development Authorities, who had entered into MoU(s)/ Development Agreements with the CD to file an Application (who has filed

claims before the RP) before the Adjudicating Authority regarding the grievance of their categorisation in the CIRP.

16. The CIRP having been commenced by admission of Section 7 Application and the CoC has already been constituted, we are of the view that RP may proceed in the process by collating/ verifying the claims of all Creditors.

17. Regulation 36A, sub-regulation (1) as amended on 15.02.2024 is as follows:

“36A. Invitation for expression of interest. (1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the Schedule-I at the earliest, not later than sixtieth day from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.

Clarification: The resolution professional after the approval of the committee may invite a resolution plan for each real estate project or group of projects of the corporate debtor.”

18. The above Regulation permits Resolution Professional (“**RP**”) after the approval of CoC to invite the Resolution Plan for each real estate project or group of project of the CD.

19. The Financial Creditor having initiated CIRP for its dues, which CIRP has been admitted, the Financial Creditor is entitled for its claim in the CIRP. However, all the steps need to be taken for Resolution of the CD in view of the fact that several Projects are situated at different cities of the Uttar Pradesh, which Projects were approved under the Hi-Tech Township Policy of the State of UP. The State/ Development Authorities provided huge lands to the CD for carrying out the Hi-Tech Township

Projects. The present is not only a case of CIRP of a real estate company, but involves large number of stakeholders including Development Authorities, Homebuyers and Financial Creditors and other Creditors.

20. The submissions raised by learned Counsel for the parties makes out *prima facie* case for issue of notice and to make an interim arrangement and to pass an interim order for protecting the interest of all stakeholders.

21. Issue Notice. Let reply be filed within two weeks and rejoinder thereafter in one week. List these Appeal(s) for disposal on **20.05.2025 at 02:00 PM.**

22. Intervention Application(s) filed by Development Authorities/ UP-RERA/ UP Awas Evam Vikas Parishad and the Homebuyers, as noted above are allowed. Intervenors are also allowed two weeks time to file affidavit in support of their case.

23. As noted above, keeping in view the issue pertaining to mode and manner of the resolution of CD and enormity of Projects, which are situated in different cities being involved, we need to hear the parties before issuing any direction with regard to manner in which Resolution of the CD shall proceed as per the provisions of the IBC. At this stage, we issue following directions:

- (1) Lucknow Development Authority and other Development Authorities are given liberty to file an Application with regard to categorisation of their claims before the Adjudicating Authority, which may be

considered and decided at an early date by the Adjudicating Authority.

- (2) The IRP/ RP shall proceed to collate and verify the claims of Creditors in accordance with the CIRP Regulations, 2016.

Till the next date of hearing, CIRP may go on, however, no Form-G shall be issued in the CIRP of the CD.

Parties may complete the pleadings before the next date.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

NEW DELHI

Ashwani