



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 273

(April 27, 2026)

**M/S Art Construction Pvt. Ltd. Vs. RP of Adel Landmarks Ltd. and Ors.
Company Appeal (AT) (Insolvency) No. 460 of 2026
Date of NCLAT's Judgement: 16th April 2026**

Facts of the Case: -

The present appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("IBC/the Code") arose from the order passed by the NCLT, New Delhi Bench-III ("Adjudicating Authority") in I.A. No. 1817 of 2023 in C.P.(IB) No. 1083 (PB) of 2018. By the impugned order, the Adjudicating Authority dismissed the application filed by the Resolution Professional ("RP") seeking approval of the resolution plan submitted by the Appellant-Successful Resolution Applicant ("SRA") and remanded the plan to the Committee of Creditors ("CoC") for reconsideration on certain specified issues. Aggrieved by the same, the Appellant preferred the present appeal.

The Corporate Debtor, M/s Adel Landmarks Ltd., was admitted into Corporate Insolvency Resolution Process ("CIRP") on 05.12.2018. Pursuant thereto, the RP invited expressions of interest, and the Appellant submitted a resolution plan, which underwent several rounds of negotiations and deliberations with the CoC. The plan was ultimately approved by the CoC with a voting share of 82.66% in its 27th meeting held on 15.09.2022, following which a Letter of Intent was issued and the Appellant furnished the Performance Bank Guarantee. The RP thereafter filed an application before the Adjudicating Authority seeking approval of the resolution plan. The Adjudicating Authority, however, rejected the approval application and remanded the resolution plan to the CoC for reconsideration in light of developments relating to five aspects, including treatment of properties under provisional attachment by the Enforcement Directorate, issues concerning certain identified properties, treatment of specific flats, licenses issued by regulatory authorities, and pending claims of homebuyers who had not submitted their plan earlier.

Aggrieved, the Appellant contended that the grounds for remand were untenable, as the issues had either already been considered by the CoC, were pending adjudication before competent forums, or stood protected under Section 32A of the IBC. It was further submitted that the Adjudicating Authority had exceeded its jurisdiction by interfering with the commercial wisdom of the CoC, particularly when the resolution plan had been duly approved with the requisite majority and had not been objected to by stakeholders. The RP and other stakeholders, including the class of homebuyers and certain creditors, supported the Appellant's case, contending that the remand was unwarranted and would cause further delay in an already protracted CIRP. It was also brought on record that the CoC, in a subsequent meeting, reiterated its approval of the resolution plan and supported the present appeal.



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NCLAT's Observations:

The Appellate Tribunal examined whether the Adjudicating Authority was justified in remanding the resolution plan, approved by the CoC with the requisite majority, for reconsideration on five specified grounds. It observed that the scope of judicial review under the IBC is limited and must be confined to the parameters set out under Sections 30(2) and 31 of the Code, without encroaching upon the commercial wisdom of the CoC.

Upon analysing the first ground relating to the Khan properties, the Tribunal noted that the issue had been subject to prior adjudication and was already pending before higher judicial forums, including the Supreme Court, which had permitted continuation of the CIRP. It further observed that the CoC had consciously accounted for the pendency of litigation and had structured the plan to make the treatment of such properties subject to the final outcome of proceedings. Accordingly, no further reconsideration by the CoC was warranted on this aspect. With respect to the provisional attachment by the Enforcement Directorate, the Tribunal held that such attachment, being subsequent to CoC approval and provisional in nature, cannot impede the implementation of the plan in view of the statutory protection under Section 32A of the IBC. It noted that both the CoC and the SRA were aware of such proceedings, and therefore, the existence of the attachment could not justify remanding back of the plan. On the issue of 30 flats in Project Era Divine Court, the Tribunal observed that related claims had already been adjudicated and appropriate safeguards had been undertaken by the RP and SRA. In light of pending appellate proceedings and prior directions permitting continuation of plan approval, it held that this could not constitute a valid ground for remanding the plan back to the CoC. Similarly, with respect to DTCP licenses and pending claims of homebuyers, the Tribunal noted that these aspects had already been duly addressed within the resolution plan and considered by the CoC. It held that reopening such issues would be contrary to settled legal principles, particularly where equitable treatment had been provided.

Reiterating the primacy of the CoC's commercial wisdom, the Tribunal held that the Adjudicating Authority had exceeded its jurisdiction by directing reconsideration of a duly approved plan without identifying any material irregularity or statutory non-compliance.

Order/Judgement: Considering the facts and circumstances of the case as highlighted above, the NCLAT concluded that none of the grounds justified remanding the plan back to the CoC. The Appellate Tribunal set aside the impugned order and directed expeditious consideration of the resolution plan.

Case Review: *Appeal allowed.*