



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-IV)**

**ITEM No.403**  
**IA/6306/ND/2025 IN IB/558/ND/2024**

**IN THE MATTER OF:**

IL&FS Financial Services Limited	....	Applicant
Versus		
M/s Ansal Properties and Infrastructure Limited	....	Respondent

**Under Section 7 of the Insolvency & Bankruptcy Code, 2016**

**Order delivered on 07.05.2026**

**CORAM:**

**SHRI ASHOK KUMAR BHARDWAJ**  
**HON'BLE MEMBER (JUDICIAL)**  
**SHRI ATUL CHATURVEDI**  
**HON'BLE MEMBER (TECHNICAL)**

**HYBRID HEARING (PHYSICAL & VC)**

**PRESENT:**

For the Applicant	:	Ms. Aparna Bhat, Sr. Advocate & Ms. Karishma Maria, Advocate in IA/6306/ND/2025
For the RP	:	Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Ms. Ridhima Mehrotra, Advocates.

**ORDER**

1. The prayer made in the captioned Application reads thus:

- A. *Allow the present Application and issue directions restraining the Resolution Professional from taking coercive action and withdraw actions already taken against the Applicant including any interference whatsoever with the Applicant's control, operation, management and administration of the Golf Course located at Sushant Golf City, Lucknow;*
- B. *Pending final adjudication of the present Application, issue directions to restore electricity supply to the Golf Course located at Sushant Golf City, Lucknow;*
- C. *Quash and set aside the illegal and arbitrary action of the Resolution Professional in terminating the Golf Course Operation and Management*



*Agreement dated 29.08.2022 entered into between the Applicant and Corporate Debtor;*

*D. Pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.*

2. The CIRP qua the Corporate Debtor commenced on 25.02.2025. Much before the commencement of CIRP, an agreement i.e. Golf Course Operation and Management Agreement, was entered into between the Corporate Debtor viz Ansal Properties and Infrastructure Limited (CIN: L45101DL1967PLC004759) and the Applicant before us, Evergreens Leisure Club & Resorts LLP.
3. The rights of the parties in terms of the Agreement were outlined in Clause 6, which reads thus:

<p>6. <b><u>REPRESENTATIONS AND COVENANTS OF OPERATOR</u></b></p> <p>The Operator does hereby make the following representations and warranties:</p> <ol style="list-style-type: none"><li>i. The Operator is very well aware of the fact that the Golf Course and its Land belongs and owned by the Owner.</li><li>ii. The Operator agrees to make a payment of <b>Rs. 2,00,000/- Rupees Two Lakhs Only</b> Per Month or <b>7.5% of Net Collection</b> Per Month whichever is higher w.e.f 01.10.2021 towards operation and Management Fees.</li><li>iii. The Operation and Management fees will increase (a) 5% of 7.5% of Net Collection after every three years however the same cannot be more than 10% of Net Collections.</li><li>iv. That revenue received from all the new Memberships offered to the customer of unit sold by Ansal after 01.10.2020 by the Owner shall be shared equally amongst the Parties.</li><li>v. The Operator is duly formed or organized, validly existing and in good standing under applicable laws;</li></ol>
--



- vi. The execution of this Agreement has been duly authorized, and is executed and delivered by the authorized representative of the Operator and it constitutes the legal, valid and binding obligation of Operator, enforceable in accordance with the terms hereof. The execution, delivery and performance of this Agreement have been duly authorized after taking all required corporate action.
- vii. The Operator has all the requisite licenses/approvals/permits required under the law to run the Golf Course as contemplated under this Agreement. The Operator further undertakes to obtain all necessary registrations from time to time solely with regards to running and maintaining the Golf Course under this Agreement under applicable legislations or under any law for the time being in force.
- viii. As on date of this Agreement and to the best knowledge of the Operator, there is no claim, litigation, proceedings, arbitration or dispute or governmental investigation pending or as far as is known to the Operator, threatened, against or relating to the Operator, which would have potential or material adverse effect on the ability of the Operator to operate and manage the Course under this Agreement or transaction contemplated by this Agreement:
- ix. Operator shall comply with all statutory rules and regulations and Legal Requirements, to the extent it is applicable to its performance under this Agreement, in a timely and accurate manner.
- x. The Operator shall provide the Owner a profit and loss statement generated by the software provided by the Owner on a monthly basis showing results of the operation of the Golf Course by 15th of following month.
- xi. The Operator shall have no objection if the Owners conduct an internal audit of the Golf Course property's books of accounts with 2 (two) days prior notice at anytime during the business hours without disturbance to the normal operations of the Golf Course.
- xii. Neither the consummation of the transactions contemplated by this Agreement on the part of the Operator to be performed nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or shall result in the breach of any of the terms, conditions or provisions of, or constitute a default under any agreement, indenture, instrument or undertaking to which the Operator is a party or by which it is bound.
- xiii. The Operator shall not assign its rights and obligations under this Agreement without the prior written consent of the Owner.



4. The event of default is defined in Clause 19 of the Agreement which reads thus:

<p>19. <b><u>EVENTS OF DEFAULT</u></b></p> <p>i. <b>Operator's Default.</b> Each of the following shall constitute an Event of Default by the Operator:</p> <p>(a) If the Operator applies for or consents to the appointment of a receiver, trustee or liquidator of the Operator or of all of a substantial part of its assets, admits in writing of its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating the Operator bankrupt or insolvent or approving a petition seeking reorganization of the Operator and</p>
<p>the said decree or judgment shall continue un-stayed and in effect for any period of ninety (90) consecutive days.</p> <p>(b) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by the Operator, or the Operator consents to, acquiesce in, or fails to defend, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.</p> <p>(c) The fraud, willful gross negligence, criminal conduct or misappropriation of funds by the Operator.</p> <p>ii <b>Owner's Default.</b> Each of the following shall constitute an Event of Default by the Owner:</p> <p>(a) If the Owner applies for or consents to the appointment of a receiver, trustee or liquidator of the Owner of all or a substantial part of its assets, or admits in written its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating the Owner a bankrupt or insolvent or approving a petition seeking reorganization of the Owner and the said decree or judgment shall continue un-stayed and in effect for any period of ninety (90) consecutive days.</p> <p>(b) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by the Owner, or the Owner consents to, acquiesce in, or fails timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.</p> <p>(c) The fraud, willful gross negligence, criminal conduct or misappropriation of funds of or by the Owner.</p>



5. It is Clause 20 of the Agreement which provides termination upon event of default which reads thus:

20. **TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES**

1. **Termination:** Upon the occurrence of an Event of Default by either Party, the non-defaulting party shall issue a notice in writing ("Cure Notice") to the defaulting party to cure the default within the time stipulated in the Cure-Notice ("Remedy Period") and upon failure to remedy such default within the stipulated period, the non-defaulting party in addition to any and all rights and remedies available under this Agreement, at law or in equity, the non-defaulting Party shall be entitled to terminate this Agreement. upon expiry of the Cure Notice.

**FURTHER IF** any of such default are capable of being remedied and the defaulting party proceeds with all due diligence within the Remedy Period to cure such default then the non-defaulting party shall at its sole discretion. upon receipt of notice from defaulting party, may approve in writing. for time extension in order to cure the default or breach.

**PROVIDED HOWEVER,** notwithstanding anything contained in the above clauses the termination shall be effective immediately (without any Cure Notice/Remedy Period) in the case of fraud, willful gross negligence, criminal conduct or misappropriation of funds, in which case the non-defaulting Party shall send a notice of immediate termination to that effect on the defaulting Party, subject to the same being proved/admitted by the other party.

6. As can be seen from the clause, upon the occurrence of an event of default by either party, the non-defaulting party can issue a notice in writing (notice to the non-defaulting party) to cure the default within the time stipulated in the Cure-Notice (remedy period) and upon failure to remedy such default within the stipulated period, the non-defaulting party in addition to any and all rights and remedies available under the agreement, the non-defaulting party shall be entitled to terminate this agreement upon expiry of the Cure Notice.
7. Apparently, before termination of the agreement, a Cure Notice was required to be given and only in the event of the failure on the part of the defaulting party to cure the defect, termination could take place. In the present case, the Ld. Counsel for the RP espoused that in terms of the Legal Notice dated 04.10.2025



itself the Agreement stood terminated. Such plea is contrary to Clause 20 of the Agreement itself. Mr. Abhishek Anand, Ld. Counsel for the RP, tried to espouse that the Applicant before us failed to pay an amount of Rs. 65,27,128/- which was payable in terms of Clause 6 of the Agreement by Applicant to the Corporate Debtor for the period from 21.10.2025. He further submitted that again, after the commencement of CIRP i.e., from 25.02.2025 till May 2026, the Applicant failed to pay another amount of Rs. 33,75,000/- to the Corporate Debtor. It is the stand of the RP that the failure of the Applicant to pay the aforementioned amount of over Rs. 1 Crore is good and sufficient reason to terminate the Agreement.

8. Relying upon the judgments of Hon'ble Supreme Court in *Embassy Property Developments (P) Ltd. v. State of Karnataka*, (2020) 13 SCC 308, *Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta*, (2021) 7 SCC 209 and *Tata Consultancy Services Limited v. Vishal Ghisulal Jain*, (2022) 2 SCC 583, Mr. Abhishek Anand, Ld. Counsel for the RP contended that the present application is not maintainable before this Tribunal and the remedy for the Applicant is to approach the appropriate forum outside the CIRP process. His contention with reference to the aforementioned judgments, is that this Tribunal can have jurisdiction only where the cause concerns the CIRP and not otherwise.
9. In all the aforementioned cases relied upon by Mr. Abhishek Anand, it was the RP, who had approached NCLT against third parties. The judgments are in different and distinct facts. As held by Hon'ble Supreme Court in **Collector of Central Excise Calcutta vs. M/s Alnoori Tobacco Products and Anr.**, [Civil Appeal- 4502-4503 of 1998], a judgment needs to be applied after understanding the facts involved in the case relied upon by the parties and the facts of the case before the Court with reference to which the case law is cited. The relevant extract of the judgment reads thus:

*“11. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out*



*of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark on lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL)] (AC at p. 761), Lord MacDermott observed : (All ER p. 14 C-D) “The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge....”*

**12.** *In Home Office v. Dorset Yacht Co. [(1970) 2 All ER 294 : 1970 AC 1004 : (1970) 2 WLR 1140 (HL)] Lord Reid said (All ER p. 297g-h), “Lord Atkin's speech ... is not to be treated as if it were a statutory definition. It will require qualification in new circumstances”. Megarry, J. in Shepherd Homes Ltd. v. Sandham (No. 2) [(1971) 1 WLR 1062 : (1971) 2 All ER 1267] observed: “One must not, of course, construe even a reserved judgment of Russell, L.J. as if it were an Act of Parliament.” And, in British Railways Board v. Herrington [(1972) 1 AC 877 : (1972) 2 WLR 537 : (1972) 1 All ER 749 (HL)] Lord Morris said : (All ER p. 761c)*

*“There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.”*

**13.** *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*

**14.** *The following words of Hidayatullah, J. in the matter of applying precedents have become locus classicus : (Abdul Kayoom v. CIT [AIR 1962 SC 680] , AIR p. 688, para 19)*

*“19. ... Each case depends on its own facts and a close similarity between one case and another is not enough because even a single*



*significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.”*

\*

\*

\*

*“Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it.”*

10. Ex facie we are of the view that when the Agreement is terminated by RP, who himself is the creation of the IBC, his act needs be challenged before this Tribunal only and not elsewhere. If any support can be drawn from the judgments relied upon by Mr. Abhishek Anand, the same would be against the plea raised by him. Nevertheless, we will delve deep into the issue. As Mr. Abhishek Anand, desired to file reply on merits, he is given two weeks’ time to do so. In the meantime, the RP is directed to ensure that the electricity connection to the Golf Course is restored forthwith, subject to payment of the rental amount of Rs. 2,00,000 by the Applicant within three days from today and the remaining amount of Rs. 33,75,000 within two months.
11. The RP will ensure that the payment offered by the Applicant is deposited in CIRP account of the Corporate Debtor.

List on **04.06.2026**.

Sd/-

**(ATUL CHATURVEDI)**  
**MEMBER (TECHNICAL)**

Sd/-

**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (JUDICIAL)**





applicant was liable to pay Rs. 200000/- (Rupees Two lakhs) per month or 7.5% of the collection to the Corporate Debtor. In her submission, as stated in the reply of application, the electricity to the Golf Course maintained by the applicant has been discontinued, hence the property is not utilised for the benefit of either of the applicants or the CD and the value of the property is deteriorating/depleting.

Mr. Abhishek Anand, Ld. Counsel for the RP submitted that the contract between the applicant and the Corporate Debtor stood terminated thus, the Corporate Debtor is justified in taking the steps in the interest of the Corporate Debtor. Without commenting upon the rival contentions, ex facie we are of the view that as the property of the Corporate Debtor maintained by the applicant is getting deteriorated and is not bringing any profit either to the applicant or to the Corporate Debtor and at this stage, the IA/6306/ND/2025 needs to be heard on urgent basis.

For the reasons stated therein, IA is allowed, and IA/6306/ND/2025 is directed to be listed for hearing on **07.05.2026** at **03:00 p.m.**

**Sd/-**  
**(ATUL CHATURVEDI)**  
**MEMBER (TECHNICAL)**  
Anurag/Alok

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (JUDICIAL)**