

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1859 of 2025

IN THE MATTER OF:

Rajeev Gupta

...Appellant(s)

Versus

**Brijesh Singh Bhadauriya, Erstwhile
RP of RCI Industries and Technologies Ltd. & Ors.**

...Respondent(s)

Present:

For Appellant(s) : Mr. Abhishek Garg and Mr. Mehul Gupta, Advocates.

For Respondent(s) : Mr. Abhishek Anand, Mr. Karan Kohli and Ms. Ridhima Mehrotra, Advocates for RP.

ORDER
(Hybrid Mode)

15.01.2026 Heard Ld. Counsel appearing for the Appellant, Counsel appearing for the RP as well as Counsel appearing for the SRA. This appeal has been filed by the Suspended Directors of the CD challenging the order dated 09.10.2025 passed by NCLT, New Delhi, Court-3 by which I.A.(IBC) (PLAN)-51- 2024 filed by RP for approving of the plan has been allowed.

2. Ld. Counsel for the Appellant challenging the order submits that there were two assets of the CD which were wrongly included in the Information Memorandum, which has been detailed in Para 10.2 (a & b), which is as follows:

“(a) Industrial Land and Building at Plot No. 108, HPSIDC, Baddi Himachal Pradesh-173005 admeasuring 9543 square meters.

“(b) Industrial Plot at Village Thantewal, H.8.No. 125, Tehsil Nalagarh,”

3. Ld. Counsel for the Appellant submits that the assets were included in the Resolution Plan, however, SRA filed an affidavit that he shall not claim any rights on the said properties and on that basis Adjudicating Authority passed the impugned order approving the Resolution Plan and issued directions with regard to said assets in Para 11.2 of the impugned order. Counsel for the Appellant submits that in the present case Information Memorandum ought to have been modified by excluding the said assets from the Resolution Process.

4. Counsel for the RP refuting the submission of the Appellant submits that the said two assets were recorded in the revenue record in the name of the CD, hence, they were rightly included in the Information Memorandum. It is further submitted that the said assets were not in possession of the CD which fact was also noticed in the Information Memorandum. There have been various applications filed with regard to the said assets before the Adjudicating Authority and other forums. It is submitted that the said assets were also included in the Resolution Plan, however, SRA on its own violation has come up and filed an affidavit that SRA shall not claim any rights on those assets in the Plan. The CoC in its commercial wisdom has approved the Plan where Financial Creditor was permitted to pursue the matter with regard to the above assets.

5. Ld. Counsel for the SRA submits that there was no error in the Information Memorandum with regard to two assets and they were also included in the Resolution Plan but assets are not in possession of the CD and

there being litigation with respect to the said assets, SRA has filed an affidavit and CoC in its commercial wisdom approved the Plan.

6. We are considered the submissions of the parties, perused the record.

7. The order which has been passed by Adjudicating Authority in Para 11.2 with respect to two assets need to be noticed, which is as follows:

“We reiterate and direct that the following two properties, (i) the Industrial Land and Building situated at Plot No. 108, HPSIDC, Baddi, Himachal Pradesh 173005, admeasuring 9543 square meters; and (ii) the Industrial Plot located at Village Thantewal, H.B. No. 125, Tehsil Nalagarh, District Solan, Himachal Pradesh, admeasuring 12 Kanal 17 Marla, will not be claimed by the Successful Resolution Applicant under the Resolution Plan, and the Resolution Professional/Monitoring Committee/Financial Creditors will pursue the claims in respect of the said properties. Any amount or benefit received will be avail by the Financial Creditors in accordance with the waterfall mechanism prescribed under Section 53 of the IBC, 2016.”

8. When we look into the directions of the Adjudicating Authority regarding two assets, it is clear that the said assets had not claimed by SRA under the Resolution Plan and the Resolution Professional/Monitoring Committee/Financial Creditor were to pursue in respect to the said property and any amount or benefit received will be availed by the Financial Creditors in accordance with the waterfall mechanism prescribed under Section 53 of

the IBC, 2016. The above directions were issuance by the Adjudicating Authority while approving the Resolution Plan. Resolution Plan having been approved by the CoC and SRA having offered not to claim any right which has been accepted by Adjudicating Authority, we are of the view that at the instance of the Suspended Directors the said decision cannot be interfered with. The submission of the Appellant that the assets were wrongly included in the Information Memorandum does not appeal to us. When the CD was shown in the revenue record as the owner of the assets, in Information Memorandum had to mention the said assets. The facts that there is litigation regarding assets is also on the record which is the reason for SRA for not claiming any right in the said assets, however, the assets have been dealt with as part of the Resolution Plan where now the Resolution Professional/Monitoring Committee/Financial Creditor to pursue the claim in respect to the said assets. Resolution Plan having been approved by the CoC in its commercial wisdom, we do not find any error in the order, warranting any interference.

9. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

Abhishek/md