

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 958 of 2025

IN THE MATTER OF:

**Pankaj Majithia, RP of Shree Ram Urban
Infrastructure Ltd**

...Appellant

Versus

Vikas Kasliwal & Ors.

...Respondents

Present:

For Appellant : Mr. Anuj Tiwari, K. Ahuja, Vaibhav Vats, Adv.

**For Respondents : Mr. Gautam Narayan, Sr. Adv. with Mr. Rohit Gupta,
Aakashi Lodha, Adv. for R1
Mr. Kunal Godhwani, Prateek Gupta, Raghav T., for
I.A No. 4618 of 2025**

O R D E R
(Hybrid Mode)

Per: Justice Rakesh Kumar Jain: (Oral)

03.09.2025: This appeal is against the order dated 03.07.2025 by which an application bearing I.A No. 1180 of 2025 filed by Vikas Kasliwal, Ex-promoter and director of Shree Ram Urban Infrastructure Ltd. (CD) against the Appellant, namely, Pankaj R Majithia, RP appointed vide order dated 22.12.2022 replacing the erstwhile RP, namely, Shri Gopal Choudhary, has been allowed and M/s Truvisory Insolvency Professional Pvt. Ltd. has been appointed as the new RP.

2. In brief, the CD, namely, Shree Ram Urban Infrastructure Ltd. was admitted into CIRP vide order dated 06.11.2019 and Shri Gopal Choudhary was appointed as the IRP at that time and was later on confirmed as RP vide order dated 06.01.2022.

3. Shorn of unnecessary details, I.A No. 1180 of 2025 was filed by the ex-promoter and director of the CD in which the following prayers were made:-

- a. *That this Hon'ble Tribunal be pleased to remove Respondent No.1 from the position of Resolution Professional of the Corporate Debtor, and appoint another Resolution Professional in place of Respondent No. 1;*
- b. *That this Hon'ble Tribunal be pleased to make a reference to the Insolvency and Bankruptcy Board of India to initiate disciplinary proceedings against Respondent No.1 herein;*
- c. *That this Hon'ble Tribunal be pleased to set aside the Notice dated 27th December 2023 issued by Respondent No.3 under Section 79A(lb) of MHADA Act, 1976;*
- d. *That this Hon'ble Tribunal be pleased to set aside the Order dated 22nd October 2024 passed by Respondent No.2;*
- e. *That this Hon'ble Tribunal be pleased to set aside all measures undertaken by Respondent Nos.2 and 3 under Section 79A of MHADA Act, 1976;*
- f. *That pending the hearing and disposal of the present Application, this Hon'ble Tribunal be pleased to stay the effect and implementation of the Order dated 22nd October 2024 passed by the Respondent No.2;*
- g. *That pending the hearing and disposal of the present Application, this Hon'ble Tribunal be pleased to restrain Respondent Nos.2 and 3 from proceeding under Section 79A of MHADA Act, 1976 in respect of the subject Property;*
- h. *Ad interim relief in terms of prayers (f) and (g);*
- i. *That this Hon'ble Tribunal be pleased to pass such other and further directions and reliefs as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.*

4. This application was contested by the Appellant by filing reply. The Tribunal recorded reasons in paras 6, 7, 8 & 9 of the impugned order for holding that the present appellant has been remiss in performing of his duties as RP, enjoined upon him under the provisions of the Code and thus replaced him with the new RP.

5. Aggrieved against this order, the present appeal has been filed in which the Appellant has made a prayer for setting aside the impugned order.

6. However, during the course of hearing, new RP, namely, M/s Truvisory Insolvency Professional Pvt. Ltd. also filed an I.A No. 4618 of 2025 in which it has made a prayer for a direction to the Appellant or the applicant in the said application to act as RP for the compliance of the provisions of the Code and Regulations made thereunder and to manage the day to day operations of the CD and for the purpose of representing the CD in the cases listed before the different Courts.

7. Mr. Anuj Tiwary, Adv. appearing for the Appellant in this appeal has, during the course of hearing, restricted his prayer to expunging certain adverse remarks made against the Appellant, while allowing the application by the impugned order, instead of pursuing the prayer made in the appeal for setting aside / quashing the impugned order as it is.

8. Counsel for the Appellant has submitted that the Tribunal has committed a factual error in observing in Para 7 of the impugned order that I.A No. 872 of 2025, having been filed by the Appellant on 12.06.2022, to restrain the authorities under Mhad Act was not pursued by it though he came to know about the notice dated 18.05.2023. In this regard, he has drawn our attention to Annexure 2 appended with the appeal which is the case status, obtained from the website of the Tribunal, as per which I.A No.872 of 2025 filed on 12.06.2022 was scrutinized by the office of the Tribunal on 14.02.2025 and defects were raised. The Appellant removed the defects and refiled the same on same date which has been accepted by the registry of the Tribunal on 17.02.2025 as defect free.

9. It is further submitted that after the defects were removed on 17.02.2025, the application was listed before the Tribunal on 19.02.2025. It is thus submitted that there was no lapse on the part of the Appellant in not pursuing the application.

10. Secondly, it is submitted that notice of the Mhad dated 18.05.2023 was not personally served upon the Appellant. In this regard, he has drawn our attention to the letter dated 07.02.2024 which has been served by the Appellant through his counsel Arshil Ajay Shah in which it is averred that the Appellant came to know about the notice dated 18.05.2023 in routine inspection of the building on which it was affixed by the Mhad authorities. It is thus submitted that no fault can be attributed to the appellant in this regard and observation made in para 6 of the impugned order are also patently erroneous.

11. He has further submitted that in para 9(b) of the impugned order, there is a reference of the order passed by the IBBI dated 24.06.2025 which was not before the Court because the order in the application bearing I.A No. 1180 of 2025 was reserved on 17.06.2025, though it was pronounced on 03.07.2025, therefore, no opportunity was given to the Appellant to contest the said allegation which has been noticed in para 9(b) of the impugned order.

12. On the other hand, Mr. Gautam Narayan, Sr. Adv., appearing on behalf of the Applicant in the application /Respondent No. 1 herein, has submitted that the Appellant has not come to the court with clean hands and is guilty of *suppressio veri and suggestio falsi* because in the notice dated 07.02.2024, purported to have been issued through his counsel it has been averred that the Appellant came to know about the notice in the routine inspection which was alleged to have been pasted on the said building but no date has been given about the said inspection and the alleged knowledge of the Appellant rather it is submitted that the Appellant himself sent a letter dated 04.07.2023 in which he has made a reference of the notice dated 18.05.2023 which has been mentioned as “received by us on 04.07.2023”. It is submitted that there is no evidence that letter dated 04.07.2023 was even sent to Mhad.

As a matter of fact, from the letter dated 04.07.2023, Counsel for Respondent No. 1 has tried to show that the Appellant himself has admitted that he had received the letter on 04.07.2023 which means that his assertion in the letter dated 07.02.2024 was false in which it has been mentioned through his counsel that the Appellant came to know about the notice which was alleged to have been pasted on the buildings and came to his notice per chance in routine inspection.

13. In respect of I.A No. 872 of 2025, Counsel for Respondent No. 1 has submitted that if the application was alleged to have been filed on 12.06.2024 then it was the duty of the Appellant to enquire from the registry about the status of the application. Allegation against the Appellant is that he was not pursuing the same, meaning thereby, he did not even care about the application after filing it and to know about its status as to whether the said application is lying in defect or it has been scrutinized or not.

14. In respect of Para 9(b), it is submitted that even if the order dated 24.06.2025, which is passed by the IBBI, has been taken note of by the Tribunal after reserving the order, the Appellant has not denied the fact that IBBI has found him guilty on three counts i.e. failure to take custody and control, failure to seek necessary approvals and allowing auction without proper process.

15. It is submitted that the Tribunal has taken judicial notice of this order dated 24.06.2025 because this order was sent by IBBI to the Tribunal. Para 3.6 read as under;-.

“A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the NCLT, New Delhi for information”

16. We have heard Counsel for the parties and after examining the record and their respective submissions, are of the considered opinion that there is

no merit in the submission made by the Appellant for expunging the alleged adverse remarks contained in para 6,7,8 and 9 because, firstly, about notice dated 18.05.2023, the Appellant has alleged that it was not served upon it whereas in the letter dated 04.07.2023, written by the Appellant himself, it has been mentioned by him in the subject of the letter that “your notice dated 18.05.2023 received by us on 04.07.2023 ref no. EE/GS/DE-III/2107/2023” falsifies the stand of the Appellant that notice dated 18.05.2023 was not received and also raises the question about his integrity because in the notice dated 07.02.2023, which was sent by the Appellant through his counsel, he has mentioned that the said notice was seen by the Appellant per chance pasted on the building during his routine inspection. He did not deliberately give the date on which date the said inspection was carried out. Secondly, the application bearing I.A No. 872 of 2025, which was filed on 12.06.2024, was not pursued by the Appellant because after filing the application he did not care to enquire about its status from the registry. He has only relied upon the case status from the website of the Tribunal in which it has been mentioned that the defects in the application were mentioned for the first time on 14.02.2025. Since, the company has been handed over to the RP alone to run the same with the aid of various agencies which he can hire, it was expected of him to have pursued the application filed diligently so that the Application may be listed for orders, therefore, we are of the considered opinion that the Appellant has been negligent in this regard as well.

17. In so far as the issue of following the principles of natural justice are concerned, in respect of observation made in para 9(b) of the impugned order, it is suffice to say that the authenticity of order passed on 24.06.2025 by the IBBI has not been challenged by the Appellant, therefore, once a fact is not

denied, it hardly makes any difference if the opportunity of hearing was given or not.

18. Thus, in view of the aforesaid discussion, all the three issues raised by the Appellant are repelled and it is therefore, held that the Tribunal has committed no error in making the alleged observations against the Appellant while passing the impugned order.

19. With these observations, we do not find any merit in the present appeal and the same is hereby dismissed.

20. Since, we have dismissed the appeal, therefore, I.A No. 4618 of 2025 has also become infructuous because the direction which has been sought in the application need not be issued as the applicant has already been appointed as the RP in place of present appellant. No Costs.

I.A.s, if any, pending is/are hereby closed.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

Sc/RR