

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1559 of 2026

IN THE MATTER OF:

Sundeep Gupta

...Appellant

Versus

Acreage Properties Private Ltd.

...Respondent

Present:

For Appellant : Mr. Abhishek Anand, Mr. Dhruv Pande & Mr. Karan Kohli, Advocates

For Respondent : Appearance not marked

O R D E R
(Hybrid Mode)

25.08.2026 Heard Shri Abhishek Anand, Learned Counsel for the Appellant, and perused the records.

2. We notice that the Respondents have already been served by the Appellant through e-mail. Otherwise also the nature of the order we intend to pass is such whereby the rights of the Respondents would not be adversely affected. Thus, the issuance of any further notices to the Respondent is hereby dispensed with.

3. The instant appeal has been filed by the Appellant, who was arrayed as Respondent No. 12 in I.A. No. 4775 of 2020, moved under Section 47 of the Code, whereby the I.A. No. 2813 of 2026, moved by the Appellant, has been dismissed on the ground that the same has been preferred with considerable delay.

4. Learned Counsel for the Appellant has drawn our attention towards the order passed by the Learned Adjudicating Authority on 07.11.2024, in I.A. No. 4775 of 2020, whereby an opportunity to file the reply was provided to Respondent Nos. 1, 2 & 3 and for other Respondents the proceedings were set ex-parte, including the Appellant, who was arrayed as Respondent No. 11.

5. It is indicated by the Learned Counsel for the Appellant that the Appellant herein was arrayed as Respondent No. 11 before the Learned Adjudicating Authority and the perusal of order dated 07.11.2024 would reveal that Respondent Nos. 11 to 13 to that proceedings were represented before the Learned Adjudicating Authority on that day through their Advocate, Shri Dhruv Pande and even in the presence of the Counsel for Respondent No. 11, the proceedings were directed to proceed ex-parte.

6. It is further submitted that, on 03.01.2025, when I.A. No. 4775 of 2020 was next listed, it was again observed by Learned Adjudicating Authority that the proceedings against the other Respondents, except Respondent Nos. 1, 2 & 3, had already been set as ex-parte.

7. It is further submitted that to recall the order dated 03.01.2025 and I.A. No. 1651 of 2025 was filed by the Appellant and the same was listed on 15.04.2025 whereon after hearing the parties the order dated on 03.01.2025, was set aside by the Learned Adjudicating Authority and the reply which was enclosed with the application was taken on record and so much so the Applicant of that application (I.A. No. 4775 of 2020) was also given opportunity to file the rejoinder vis-à-vis the reply filed by the Appellant.

8. It is further submitted that, vide order dated 19.02.2026, the Counsel for the Applicant in I.A. No. 4775 of 2020 was further given two weeks' time to file the rejoinder. It is however, on the same day the I.A. No. 1651 of 2025, pertaining to which an order was already passed on 15.05.2025, setting aside the order dated 03.01.2025, has been reopened and the same was disposed of in terms of I.A. No. 3948 of 2025 (The I.A. No. 3948 of 2025 was dismissed as withdrawn with the liberty given to move appropriate application to recall the order dated 07.11.2024). Thus, Appellant was also given opportunity to move appropriate application to recall order dated 07.11.2024.

9. It is further submitted that I.A. No. 2813 of 2026 was moved by the Appellant, in pursuance of the liberty given by the Learned Adjudicating Authority for recall of the order dated 07.11.2024, however, by passing the impugned order the same has been dismissed only on the ground that the application has been moved with considerable delay.

10. It is vehemently submitted that there was no delay on the part of the Appellant in moving the application, as under some inadvertent mistake he has earlier moved an application I.A. No. 1651 of 2025 to recall the order dated 03.01.2025 instead of order dated 07.11.2024 and by passing an order dated 15.05.2025 the order dated 03.01.2025 was set aside/recalled and the reply filed by the Appellant along with that application was also taken on record. The subsequent I.A. No. 2813 of 2026 was moved under the direction of the Learned Adjudicating Authority passed on 19.02.2026, thus the impugned order may kindly be set aside and the reply already filed by the Appellant before the Learned Adjudicating Authority may be directed to be taken on record, with a consequential direction of permitting participation of the Appellant in the proceeding pending before the Learned Adjudicating Authority.

11. We have heard the Learned Counsel for the Appellant and perused the record.

12. It is evident that the Appellant was set ex-parte on 07.11.2024 and the said order was continued on 03.01.2025. However, under some misconception an application I.A. No. 1651 of 2025 was moved by the Appellant to recall/set aside of the order dated 03.01.2025, instead of the order dated 07.11.2024. The Learned Adjudicating Authority also on 15.05.2025 under some misconception appears to have taken on record the reply filed by the Appellant along with the application and set aside the order dated 03.01.2025 and the opportunity was also provided to the Applicant of I.A. No. 4775 of 2020 to file rejoinder.

13. Subsequently, it was noticed by the Learned Adjudicating Authority that the order dated 15.05.2025 has been passed with regard to the order dated 03.01.2025 and not in lieu of order dated 07.11.2024 and it is in this regard the I.A. No. 1651 of 2025 was disposed of on 19.02.2026 in terms of I.A. No. 3948 of 2025 which was dismissed as withdrawn and liberty was given to the Applicant to move an appropriate application to recall the order dated 07.11.2024. Thus, opportunity was also provided to Appellant to move appropriate application for recall of order dated 07.11.2024, and in pursuance of this order, the I.A. No. 2813 of 2026 was moved by the Appellant which has been dismissed by passing impugned order.

14. Thus, the above sequence of events would reveal that there was no considerable delay so far as moving of the application i.e., I.A. No. 2813 of 2026 by the Appellant is concerned for the recall of the order dated 07.11.2024. However, the only mistake appears to have been committed by the Appellant is to have moved the application for recall/set aside of the order dated 03.01.2025, while the same should have been moved for recall of the order dated 07.11.2024. Having regard to the above fact and circumstances, we are of the considered view that an hyper-technical view has been taken by the Learned Adjudicating Authority while passing the impugned order as the I.A. No. 2813 of 2026 was in fact moved by the Appellant under the directions of the Learned Adjudicating Authority passed on 19.02.2026 and the order dated 03.01.2025 was already set aside by the Learned Adjudicating Authority. In our considered view the Appellant may be provided opportunity to contest the case before the Learned Adjudicating Authority.

15. During the course of deliberation an order dated 13.07.2026, passed by the Learned Adjudicating Authority has been placed before us, in order to show that the next date of listing in I.A. No. 4775 of 2020 is 27.08.2026 and that the said I.A. is still not disposed of. The said order is taken on record.

16. Accordingly, for the reasons stated hereinabove, the appeal filed by the Appellant is allowed the impugned order passed by the Learned Adjudicating Authority is hereby set aside and order dated 07.11.2024 is recalled only to the extent of Respondent No. 11/Appellant. The reply filed by the Appellant/Respondent No. 11, which is already on the record before the Learned Adjudicating Authority is directed to be taken on record and the Appellant is permitted to participate in the proceeding before Learned Adjudicating Authority.

17. There is no order as to costs. The appeal is finally disposed of in above terms.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

KS/MR