

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

C.A. NOS. OF 2024  
(@SLP(C) Nos.29327-29328 of 2019)

COMMITTEE OF CREDITORS ...APPELLANT (S)

VERSUS

DIRECTORATE OF ENFORCEMENT & OTHERS ...RESPONDENT (S)

And

C.A. No. 3362 of 2020

DIRECTORATE OF ENFORCEMENT ...APPELLANT (S)

VERSUS

JSW STEEL LTD. & OTHERS ...RESPONDENT (S)

O R D E R

1. The Civil Appeals arising out of SLP(C) Nos. 29327-29328/2019 have been filed by the Committee of Creditors against the Directorate of Enforcement and Others challenging the impugned order dated 10.10.2019 passed by the Directorate of Enforcement (hereinafter referred to as the E.D.) in exercise of the powers conferred under the Second proviso to sub-section(1) of Section 5 of the Prevention of Money Laundering Act,

2002 (hereinafter referred to as the PMLA), ordering provisional attachment of the properties as detailed in the Table mentioned therein, of the Corporate Debtor (Bhushan Power and Steel Ltd.), being the proceeds of crime as defined under Section 2(1)(u) of the PMLA, and challenging the impugned judgment dated 14.10.2019 passed by the National Company Law Appellate Tribunal, New Delhi (hereinafter referred to as the NCLAT) in Company Appeal (AT) (Insolvency) No. 957/2019, staying the said order dated 10.10.2019 passed by the E.D. The Civil Appeal No. 3362 of 2020 has been filed by the E.D. against JSW Steel Ltd. and Others, challenging the impugned judgment dated 17.02.2020 passed by the NCLAT in the said Company Appeal (AT) (Insolvency) No. 957/2019, approving the Resolution Plan submitted by the successful Resolution Applicant JSW Steel Ltd. with modification/clarification as mentioned therein.

2. These Civil Appeals were tagged along with the Civil Appeal No.1808/2020 filed by Kalyani Transco against Bhushan Power and Steel Ltd. and Others along with the other Civil Appeals.

3. The issue involved in the instant Appeals pertained to the jurisdiction of the E.D. to attach the properties of the Corporate Debtor, which was undergoing Corporate Insolvency Resolution Process, particularly in the light of Section 32A of the Insolvency and Bankruptcy Code, 2016 (IBC).

4. Today, the learned counsel Mr. Zoheb Hussain and learned S.G. Mr. Tushar Mehta appearing for the E.D. have submitted the Affidavit dated 11.12.2022 of Mr. Dipin Goel, Deputy Director, Directorate of Enforcement, New Delhi, and have prayed to dispose of these Appeals in the light of the said Affidavit. Mr. Zoheb Hussain also took the Court to the provisions contained in the sub-section(2) of Section 32A of the IBC and in sub-section(8) of Section 8 of the PMLA read with Rule 3A of the Prevention of Money Laundering (Restoration of Property) Rules, 2016 (hereinafter referred to as the said Rules) to submit that the NCLT had approved the Resolution Plan vide the order dated 05.09.2019 which was under challenge before the NCLAT in the Appeals filed by various parties, and in the meantime the competent authority of the PMLA vide the

order dated 10.10.2019 had provisionally attached the properties of the Corporate Debtor. He further submitted that Section 32A came to be inserted in the IBC with effect from 28.12.2019, which did not have the retrospective effect, and hence, in view of the peculiar facts and circumstances of the case and without prejudice to the rights and contentions of the E.D. with regard to the investigation of the case registered against the accused-Promoters of the Corporate Debtor-Bhushan Power and Steel Ltd. and Others, the successful Resolution Applicant be permitted to take control of the attached properties treating the same as the restitution under Section 8(8) of the PMLA read with Rule 3A of the said Rules.

5. The learned senior counsel Mr. Abhishek Manu Singhvi appearing for the CoC and learned senior advocate Mr. Neeraj Kishan Kaul appearing for the successful Resolution Applicant have also stated that they have no objection if these Appeals are disposed of as prayed for in the light of the said Affidavit filed on behalf of the E.D.

6. In view of the above submissions made by the learned counsel for the E.D. and the learned counsel for the CoC and for the successful Resolution Applicant JSW, following order is passed without expressing any opinion on the merits of the Appeals and without prejudice to the rights and contentions of the respective parties in the connected Appeals and other proceedings, including the right of the E.D. to investigate into the cases registered against the accused-Promoters of the Corporate Debtor, under the PMLA.

ORDER

- (i) The Appellant-E.D. is directed to handover and the Respondent successful Resolution Applicant JSW is directed to take over the control of the properties of Corporate Debtor-Bhushan Power and Steel Ltd., provisionally attached vide the order dated 10.10.2019 passed by the E.D., immediately

in view of Section 8(8) of the PMLA read with Rule 3A of the said Rules.

(ii) It is clarified that this order is passed with the consensus of the learned counsels appearing for the concerned parties, considering the peculiar facts and circumstances of the cases, more particularly the fact that the order of provisional attachment was passed by the E.D. after the Adjudicating Authority i.e., NCLT had approved the Resolution Plan submitted by the successful Resolution Applicant.

(iii) It is further clarified that the Court has not expressed any opinion on the interpretation of Section 32A (2) of IBC or on the powers of the E.D. to attach the property of the Corporate Debtor which is undergoing the Corporate Insolvency Resolution Process, or on any other legal issue involved in the other connected

Appeals which are pending for consideration  
before this Court.

7. All the three Appeals stand disposed of in terms  
of the aforesaid order.

8. Pending application(s), if any, shall also  
disposed of.

.....J.  
(BELA M. TRIVEDI)

.....J.  
(SATISH CHANDRA SHARMA)

NEW DELHI;  
11<sup>th</sup> DECEMBER, 2024.

ITEM NO.25

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s).1808/2020

KALYANI TRANSCO

Appellant(s)

VERSUS

M/S BHUSHAN POWER AND STEEL LTD. & ORS.

Respondent(s)

(IA No. 160529/2022 - CLARIFICATION/DIRECTION, IA No. 94590/2020 - EARLY HEARING APPLICATION, IA No. 71109/2021 - EARLY HEARING APPLICATION, IA No. 58416/2021 - EARLY HEARING APPLICATION, IA No. 26335/2021 - EARLY HEARING APPLICATION, IA No. 8922/2021 - EARLY HEARING APPLICATION, IA No. 1909/2021 - EARLY HEARING APPLICATION, IA No. 115750/2020 - EARLY HEARING APPLICATION, IA No. 48179/2022 - EARLY HEARING APPLICATION, IA No. 58417/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 71110/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 35547/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 109279/2020 - INTERVENTION/IMPLEADMENT, IA No. 41762/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 35545/2020 - STAY APPLICATION)

WITH

C.A. No. 2192-2193/2020 (XVII)

(IA No. 66571/2022 - APPLICATION FOR PERMISSION, IA No. 54419/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 98011/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 94561/2020 - EARLY HEARING APPLICATION, IA No. 35003/2020 - EX-PARTE STAY, IA No. 34999/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 39037/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 35002/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 35042/2021 - STAY APPLICATION)

C.A. No. 3784/2020 (XVII)

(FOR ADMISSION)

SLP(C) No. 29327-29328/2019 (XVII)

(IA No. 42114/2021 - APPLICATION FOR TAKING ON RECORD, IA No. 50324/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 37219/2020 - CLARIFICATION/DIRECTION, IA No. 47947/2020 - CLARIFICATION/DIRECTION, IA No. 56932/2022 - CLARIFICATION/DIRECTION, IA No. 65757/2020 - EARLY HEARING APPLICATION, IA No. 71728/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 57427/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 50833/2020 - EXEMPTION FROM FILING



**AFFIDAVIT, IA No. 20172/2020 - INTERVENTION APPLICATION, IA No. 50831/2020 - INTERVENTION/IMPLEADMENT, IA No. 37218/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 191413/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)**

**C.A. No. 2225/2020 (XVII)**

**(IA No. 127575/2022 - CLARIFICATION/DIRECTION, IA No. 47731/2020 - EX-PARTE STAY, IA No. 84470/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 46583/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 166408/2021 - WITHDRAWAL OF CASE / APPLICATION)**

**C.A. No. 3020/2020 (XVII)**

**(IA No. 103824/2020 - EARLY HEARING APPLICATION and IA No. 84642/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**C.A. No. 3362/2020 (XVII)**

**(IA No. 111988/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 100249/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 111987/2020 - INTERVENTION/IMPLEADMENT, IA No. 105560/2021 - PERMISSION TO RAISE ADDITIONAL QUESTION OF LAW and IA No. 100248/2020 - STAY APPLICATION)**

**C.A. No. 668/2021 (XVII)**

**(IA No. 7254/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**C.A. No. 6390/2021 (XVII)**

**(IA No. 136440/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**Date : 11-12-2024 These matters were called on for hearing today.**

**CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI  
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA**

**For Appellant(s) Mr. Mukesh Kumar Maroria, AOR  
Mr. Arup Banerjee, AOR**

**Mr. Diwakar Maheshwari, Adv.  
Mr. Mayank Kshirsagar, AOR**

**Mr. Dhruv Mehta, Sr. Adv.  
Mr. Sanjay Mehta, Sr. Adv.  
Ms. Ranjeeta Rohatgi, AOR**

M/S. Law Associates, AOR

Mr. Tushar Mehta, Solicitor General  
Mr. Milind Kumar, AOR

Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Sanjiv Sen, Sr. Adv.  
M/S. Cyril Amarchand Mangaldas, AOR

Mrs. V. D. Khanna, AOR

Mr. Tushar Mehta, Solicitor General  
Mr. Jogy Scaria, AOR

For Respondent(s) Mr. Soumya Dutta, AOR

Mr. Sanjiv Sen, Sr. Adv.  
M/S. Cyril Amarchand Mangaldas, AOR

Mr. Soayib Qureshi, AOR

Mr. Shyam Divan, Sr. Adv.  
Mr. S. S. Shroff, AOR

Mr. Neeraj Kishan Kaul, Sr. Adv.  
Mr. Gopal Jain, Sr. Adv.  
M/S. Karanjawala & Co., AOR

Mr. Arvind Datar, Adv.  
Mr. Atishi Dipankar, AOR

Mr. Tushar Mehta, Solicitor General  
Mr. Zoheb Hussain, Adv.  
Mr. Amrish Kumar, AOR

Mr. Tushar Mehta, Solicitor General  
Mr. Zoheb Hussain, Adv.  
Mr. Arvind Kumar Sharma, AOR

Mr. Mukesh Kumar Maroria, AOR

Mr. B.L.N.V. Parsad, Adv.  
Mr. B. Krishna Prasad, AOR

Dr. Vinod Kumar Tewari, AOR  
Mr. Pramod Tiwari, Adv.

M/S. Law Associates, AOR  
Ms. Ranjeeta Rohatgi, AOR

Ms. Madahavi Diwan, Sr. Adv.  
Ms. Aandrita Deb, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

I. SLP (C) Nos.29327-29328/2019 and C.A. No.3362/2020 :-

1. Leave granted in SLP (C) Nos.29327-29328/2019.
2. The learned S.G., Mr. Tushar Mehta alongwith Mr. Zoheb Hussain, learned counsel appearing for the E.D. has placed on record the affidavit filed on behalf of the Directorate of Enforcement in Civil Appeal No.1808 of 2020. They undertake to file the original of the same in the Civil Appeals arising out of SLP (C) Nos.29327-29328/2019, filed by the "Committee of Creditors Vs. Directorate of Enforcement & Ors." and in C.A. No.3362 of 2020 filed by the "Directorate of Enforcement Vs. JSW Steel Ltd. & Ors."
2. Both the Appeals stand disposed of in view of the detailed signed order, to follow in view of the said affidavit.

II. Civil Appeal No.1808/2020, Civil Appeal Nos.2192-2193/2020, Civil Appeal No.3784/2020, Civil Appeal No.2225/2020, Civil Appeal No.3020/2020, Civil Appeal No.668/2021 and Civil Appeal No.6390/2021

1. List on 22.01.2025, to be treated as part-heard, before the same combination of Bench, high on board, at 2.00 P.M.

(RAVI ARORA)  
COURT MASTER (SH)

(signed order is placed on the file)

(MAMTA RAWAT)  
COURT MASTER (NSH)