

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 329 of 2018

IN THE MATTER OF:

State Bank of India

...Appellants

Versus

Punjab National Bank & Ors.

...Respondents

Present:

For Appellant : Mr. Abhay Gupta, Advocate for SBI

**For Respondents: Mr. NU Srinivasan, Advocate for R1
Mr. K.V. Balakrishnan, Mr. Rahul Sharma, Advocates
for R-3
Mr. Varun Srinivasan, Advocate for R-
4,5,6,7,11,13,17 and 23
Mr. Manmeet Singh, Ms. Nishtha Chaturvedi,
Advocates for SRA/R-25
Mr. Bishwajit Dubey, Mr. S. Banerjee, Advocates for
RP in 7 and 8**

With

Company Appeal (AT) (Insolvency) No. 529 of 2018

IN THE MATTER OF:

Punjab National Bank

...Appellants

Versus

State Bank of India & Ors.

...Respondents

Present:

For Appellant : **Mr. NU Srinivasan**

For Respondents: **Mr. Varun Srinivasan, Advocate for R-4,5,6,7,11,13,17 and 23**
Mr. K.V. Balakrishnan, Mr.Rahul Sharma, Advocates for R-3
Mr. Abhay Gupta, Advocate for SBI

ORDER

31.01.2019 Both the appeals relate to internal dispute between the 'State Bank of India' in one side and 'Punjab National Bank' in other side, the 'State Bank of India' (Volunteers Association on behalf of all the Banks) being lead Bank. According to the 'Punjab National Bank' and others, a sum of Rs. 300 crores was collected and was acquired through the sale of one of the assets of the 'Corporate Debtor' prior to the initiation of 'Corporate Insolvency Resolution Process'.

The grievance of Punjab National Bank and other Banks is that though all the banks have charge on the sale proceeds of Rs. 300 crores received on sale of assets of the 'Corporate Debtor', during the period of 'Moratorium', the 'State Bank of India' has encashed the amount and kept it with them. In the result, the other Banks could not get their respective shares out of proceeds of 300 crores received from the sale of the assets of the 'Corporate Debtor'. This has also not been reflected in the 'Resolution Plan'.

Learned Counsel appearing on behalf of the 'State Bank of India' submits that arguing Counsel Mr. Ramji Srinivasan, Senior Advocate is out of Delhi. According to the learned counsel for 'Successful Resolution Applicant', the claims of all the creditors including the banks in question have been dealt with by the 'Resolution Professional'.

Admittedly, the 'Resolution Plan' approved by the Adjudicating Authority (National Company Law Tribunal) under Section 31 of the Insolvency and Bankruptcy Code (I&B) is not under challenge in these appeals, therefore, we cannot express any opinion with regard to the approved Resolution Plan.

The question arises for consideration in these appeals are: -

- (i) *Whether internal dispute between the Banks with regard to generation of money out of the sale assets of the 'Corporate Debtor' can be decided by 'Resolution Professional' / Adjudicating Authority; and*
- (ii) *Whether such issue can be decided by the Appellate Tribunal.*

If not so, which is the Forum the parties should move.

We intend to hear the parties on such issues.

On the request of the learned Counsel for the 'State Bank of India' we adjourn the matter.

Post both these appeals for 'Orders' on **11th February, 2019.**

Both the appeals may be disposed of on the next date of hearing.

In the meantime, the parties may file short written submissions not more than three pages by 6th February, 2019.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

ss/uk/