
Counsels appeared through Physically/ Video Conference

Mr.Jishnu Saha, Sr.Adv.] For SREI
Mr.Debnath Ghosh, Adv.]
Mr.Soumyajit Mishra, Adv.]
Mrt.Krishnendu Datta,Adv.] For Consolidated CoC
Mr.Rahul Gupta, Adv.]
Mr.Joy Saha, Sr.Adv.] For Applicant in IA 1713/2023
Mr.Avishek Guha, Adv.]
Mr. Ishaan Saha, Adv.]
Ms.Arunika Dutta, Adv.]
Mr.Kaustov De Sarkar, Adv.]
Ms.Akansha Nehra, Adv.] For Respondent No.5 in IA 1509/2022
Ms.Adya Singh, Adv.]

COMMON ORDER

Per: Coram

1. **IA (IBC)/1713/KB/2023**, is an application filed by the Applicant under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rule, 2016 for the following reliefs:-
 - i. An order be made recalling and /or setting aside the order dated 18th August, 2023 passed by this Adjudicating Authority in (IVN. P(IBC) 15/KB/2023 in **IA /559/2022** in CP(IB)/294/KB/2021 ‘Reserve Bank of India V. Srei Equipment Finance Limited)
 - ii. Pending the disposal of the instant application an interim order be made staying further operation of the order dated 18th August, 2023 and any further proceeding in IVN.P(IBC)/15/KB/2023.
 - iii. Such further or other order or orders as to this Hon’ble Tribunal shall deem fit and proper.

Facts of the case :

2. The applicants are assignee of a pool of loans and are collectively referred to as the “pool lenders”. The pool of loans were assigned by the Corporate Debtor through several Deeds of Assignment.
3. Vide a Service Agreement executed between the Corporate Debtor and the Applicants, the Corporate Debtor was appointed as the ‘Servicer’ to collect and receive payment of the receivables under the Deeds of Assignment and to deposit the same to the assignees.

IA 559(KB)/2022

4. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process on 8.10.2021 and thereafter on 08.06.2022, the Applicants filed an application being being IA 559 of 2022 wherein it was prayed that receivables to the tune of Rs.848 Crores, collected by the corporate debtor on behalf of the applicants, to be excluded from the list of assets of the corporate debtor.
5. An Intervention application being IVN. 15(KB) 2023, arising out of IA 559 of 2022 had been earlier filed by the Consolidated Committee of Creditors which was not moved/heard before IA 559 of 2022 was reserved for judgment.
6. The resolution plan came to be passed by the Consolidated CoC on 14.02.2023 and IA no 428 and 434 of 2023 containing the Resolution Plan were filed by the Administrator on 21.02.2023 and 22.02.2023 respectively. However, vide an order dated 17.05.2023, this Adjudicating Authority reserved the IA 559 of 2022 for judgment.
7. The resolution plan was approved by this Adjudicating Authority on 11.8.2023. It is worth noting that the applicant herein viz. Punjab National Bank was a part of the Consolidated Committee of Creditors, that had approved the plan.
8. The applicant in IA viz 1713 resents that IVNP 15(KB) 2023 was taken up by

this Adjudicating Authority on 18.08.2023 ex-parte despite the IA 559 of 2022 being reserved for judgment. Consequently, the order dated 17/05/2023 of reserving the IA 559 of 2022 got recalled and the IA 559 of 2022 was put back on the list without any notice to the applicants vide an order dated 18/08/2023 of this Adjudicating Authority. The applicant therefore prays for de-facto restoration of the status of IA 559 as “ Reserved for Orders”.

Analysis and Findings

9. The impugned order dated 18.08.2023 that is sought to be recalled reads as under:

ORDER

1. Ld. Senior Counsel/Counsel for the parties present.
2. **IVN.P (IBC)/15(KB)2023:**
 - a) This is an Intervention application filed by Consolidated CoC in the SRFI matter, seeking to intervene in IA559, which was reserved for orders on 17.5.2023. The contention of the applicant is that the application IA/559/KB/2022 has been reserved orders without giving an opportunity to the applicant, who is a necessary party in the matter.
 - b) It was submitted by the Sr. Counsel Mr. Krishnendu Datta that the Consolidated CoC has already voted in favour of the plan and that the applicant in IA/559/2022 viz. Punjab National Bank and other pool lenders were already members of the Consolidated CoC.
 - c) In view of this, IVN.P (IBC)/15/KB/2023 stands allowed and IA 559 is put back on board for consideration in light of the submissions made by the Ld. Sr Advocate in this Intervention application.
 - d) List the matter before the regular bench on 15.09.2023

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

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10. The contention of the applicant i.e. Consolidated Committee of Creditors in IVN (IBC)/KB/15/2023 was that despite being a necessary party, they were not afforded an opportunity of hearing before reserving the matter in IA 559 and therefore the order reserving IA 559 was sought to be recalled. It is pertinent to mention that this application was placed before the Special bench of the same constitution that had reserved IA 559 for orders on 17th May 2023.
 11. We have now examined the matter in entirety and hold that since the Resolution Plan has already been approved by this Adjudicating Authority on **11.8.2023**; after its due approval by the Consolidated Committee of Creditors in its Commercial wisdom, of which the applicant in IA 559 and IA 1713 was a member, therefore both these applications have been rendered infructuous.
 12. In view of the above, both **IA(IB) No. 559/KB/2022 and IA.(IB)No. 1713/KB/2023** are disposed of as infructuous.
 13. The Registry is directed to send e- copies of the order forthwith to all the parties for information and for taking necessary steps.
 14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

(Balraj Joshi)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Order signed on this, the 8TH day of May 2024.

PJ