

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 467 of 2021

IN THE MATTER OF:

Piramal Capital & Housing Finance Ltd.

Having its registered office at:
4th Floor, Piramal Tower,
Peninsula Corporate Park,
Ganpatrao Kadam Marg,
Lower Parel, Mumbai – 400 013.

...Appellant

Versus

**The Administrator,
Dewan Housing Finance Corporation Ltd.**

Having its registered office at:
6th Floor, HDIL Towers, Anant Kanekar Marg,
Station Road, Bandra (East),
Mumbai – 400 051.

...Respondent No. 1

**Committee of Creditors of
Dewan Housing Finance Corporation Ltd.**

Having its registered office at:
6th Floor, HDIL Towers, Anant Kanekar Marg,
Station Road, Bandra (East),
Mumbai – 400 051.

...Respondent No. 2

For Appellant: **Dr. Abhishek Manu Singhvi and Mr. Ashish Dholakia,
Sr. Advocates with Mr. Ashish Bhan, Ms. Chitra
Rentala, Mr. Aayush Mitruka and Ms. Samriddhi
Shukla, Advocates.**

For Respondents: **Mr. Ravi Kadam, Sr. Advocate with Mr. Liz Mathew,
Ms. Sonali Jain, Mr. Rohan Rajadhyaksha and Mr.
Naveen Nath, Advocates for R-1.**

**Mr. Ramji Srinivasan, Sr. Advocate with Mr. Raunak
Dhillon, Mr. Subhankar Jain, Mr. Animesh Bisht, Ms.
Saloni Kapadia, Ms. Madhavi Khanna, and Ms.
Rajshree Chaudhary, Advocates for R-2 (CoC).**

**Mr. Siddhant Kant and Ms. Moulshree Shukla,
Advocates for Prudential International Insurance
Holding.**

ORDER
(Virtual Mode)

12.07.2021: This Appeal has been filed by the Appellant – Successful Resolution Applicant against part of direction in impugned order dated 7th June, 2021 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench in I.A. No. 449 of 2021 in C.P. (IB) No. 4258/MB/CII/2019. The Appellant has challenged the impugned order limited to the following direction which was given by the Adjudicating Authority (at Page 122 of the Appeal). In Operative Order of Impugned Judgment Direction (ii) is as under:

“(ii) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in the light of the decision of Hon’ble Supreme Court in the matter of Ghanshyam Mishra and sons vs. Edelweiss Asset Reconstruction Company Limited.”

2. The Learned Senior Counsel for the Appellant submits that this Para requires clarification as although the Para refers to decision in the judgment of ‘Ghanshyam Mishra and Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Limited. & Ors.’, Civil Appeal No. 8129/2019 dated 13th April, 2021, the directions are not in consonance with the directions issued by Hon’ble Supreme Court in the matter of ‘Ghanshyam Mishra’. It is argued that, they are rather contrary requiring Appellant to approach individual authorities to extinguish statutory liability/obligations.

3. The Learned Counsel for the Administrator submits that the submissions being made by the Learned Counsel for the Appellant he agrees with the same and it is necessary that there should not be any confusion in the implementation of the Resolution Plan which has been approved.

4. The Learned Senior Counsel for the Committee of Creditors (CoC) submits that the CoC is concerned with the fact that the Successful Resolution Applicant should not have any excuse for not duly and completely executing the Resolution Plan which has been approved by the CoC.

5. With consent of Counsel for both sides, we have taken up this Appeal for final disposal, and heard them.

6. Having going through the impugned direction and going through the judgment in the matter of 'Ghanshyam Mishra and Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Limited. & Ors.', we find that there is some confusion in this Para (ii) which has been passed by the Adjudicating Authority. It would be appropriate to reproduce Para 95 from the Judgment of 'Ghanshyam Mishra', where the Hon'ble Supreme Court dealt with various questions and answered the same as under:

"95. In the result, we answer the questions framed by us as under:

(i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and

its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect;

(iii) Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.”

7. (A) In view of the above, we direct that in place of the above impugned Para (ii) in the impugned order, the direction shall be:

‘All the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to

the date the Adjudicating Authority was granting its approval under Section 31 could be continued.’

(B) We substitute this direction in place of Para (ii) of the Operative Order of impugned order.

(C) With such direction we dispose of the Appeal. No costs.

[Justice A.I.S. Cheema]
The Officiating Chairperson

[Dr. Alok Srivastava]
Member (Technical)

Archana/gc.