

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
05-03-2024 AT 10:30 AM**

CP (IB) No. 249/7/HDB/2022

And

IA(IBC) 490 & 491/2024 in CP (IB) No. 249/7/HDB/2022

u/s. 7 of IBC, 2016

IN THE MATTER OF:

Axis Bank Limited

...Financial Creditor

VS

Karvy Forde Search Private Limited

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

COMMON ORDER in IA NO.491/2024 & IA NO.490/2021

IA No.491/2024

1. This is an application filed by the financial creditor to re-open the present Company Petition, which stood posted for orders on 05.03.2024, for further hearing in the main Company Application and for other reliefs.
2. According to the applicant, during the hearing held on 16.02.2024, respondent/corporate debtor for the first had challenged *locus standi*, of the signatory to the preset Company Petition filed under Section 7 of IBC, contending, inter-alia, that the power of attorney dated 23.08.2017 basing on which the agent/signatory Shri Raghuram Moguluru, had claimed

authority to represent and sign the financial creditor and also to sign the petition, since not supported by any Board Resolution of the financial creditor, he has no *locus standi*, to file the petition. Hence, the petition filed under Section 7 of IBC is not maintainable and liable to be dismissed. According to the learned counsel for the petitioner, the above objection was not raised in the pleadings and was raised only after the Company Petition was reserved for orders.

3. Therefore, under these circumstances, the petitioner filed another IA 490/2024 to take on record the Board Resolution dated 23.08.2017, whereunder among other signatories Shri Raghuram Moguluru, who signed the Company Petition also has been authorized to file the Applications under the I&B Code, 2016. Therefore, in the above back drop the matter needs to be re-opened for the purpose of further hearing. Hence this petition.

IA No.490/2024

4. This is an application filed to accept or receive on record the circular resolutions passed by the Committee of the Whole-time Directors of the Financial Creditors dated 23.08.2017 and to treat the same as part and parcel of the main Company Application. The reasons put forth in this application are similar to what has been stated in IA491/2024.

Both these Applications were strongly opposed by the respondent/corporate debtor, *mainly*, by contending that the company petition since reserved for orders, application to re-open the matter per se, not maintainable, as such both the above Applications are liable to be dismissed.

In support of the said plea, respondent/corporate debtor relied on the ruling of Hon'ble NCLAT, in re **Loramitra Rath vs JM Financial Asset Reconstruction Co. Ltd and another**, which was held as below:

It is a well settled proposition of law that the two stages of reserving of judgment and pronouncement of judgment are in a continuum with no hiatus or gap as such in the two stages. That being the well accepted and time-tested practice in court proceedings, subsequent pleadings filed by way of an I.A. after the judgement is reserved is normally not entertained for reasons of procedural propriety. The Adjudicating Authority while dismissing the I.A. has applied the same settled position of law that when a matter is reserved for orders, there is no scope for entertaining application from parties to re-hear the matter. The Adjudicating Authority has relied on the judgment of the Hon'ble Supreme Court in [Arjun Singh v. Mohindra Kumar & Ors.](#) 1964 5 SCR 946 and Hon'ble Rajasthan High Court in [Rajasthan Financial Corporation v. Pukhraj Jain & Ors.](#) in AIR 2001 Raj 71 to hold that no application could be moved after the final arguments were heard and the case was closed for judgment. Hence, we find that the Adjudicating Authority had committed no error in not entertaining the I.A. particularly so when the I.A. contained facts which were already in existence at the time of filing of reply and at the time of making pleadings in the main company petition. Neither do we find any cogent grounds having been cited to explain what had impeded the Appellant from flagging these issues during the hearing of the main company petition. It also does not stand to any logical reasoning as to why the issues raised in the I.A. could not have been raised in the Company Appeal (AT) (Insolvency) No. 1359 & 1360 of 2023 main company petition. Raising such technical issues and that too after detailed hearing in the main petition was concluded clearly shows that the Appellant was merely trying to raise feeble grounds in the I.A. to somehow delay and derail the admission of CIRP. Hence in our considered opinion, the Adjudicating Authority had rightly rejected the I.A. 253/2023”.

5. In the light of the contest as aforementioned a short and the only point that arises for our consideration is:

Whether the present petition to re-open the matter when the same is posted for orders, is maintainable? and whether the document now sought to be filed can be received?

6. We have heard the learned counsel for both sides, pursued the record.

7. At the outset it is to be stated that admittedly the IA 491/2024 has been filed after conclusion of submissions and when the matter has already been posted for orders. Therefore, in this undeniable *factual* back ground, the ruling of NCLAT in re, *Loramitra Rath vs JM Financial Asset Reconstruction Co. Ltd* supra, no wherein it was reiterated that ‘*no application could be moved after the final arguments were heard and the case was closed for judgment*’ the present application since moved after the matter was reserved for Order, is not maintainable.

8. Therefore, both these applications are liable to be dismissed, accordingly the same are hereby dismissed. No costs.

CP (IB) No. 249/7/HDB/2022

Orders pronounced. In the result, **this Company Petition is rejected.** No costs.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)