

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD

COURT - 2

ITEM No.305

IA/1058(AHM)2023 in IA/357(AHM)2023 in CP(IB) 268 of 2020

Order under Section 60(5) IBC

IN THE MATTER OF:

Arrow Engineering Limited

.....Applicant

Order delivered on: 22/03/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet

-sd-

**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

-sd-

**CHITRA HANKARE
MEMBER (JUDICIAL)**

IA No.1058 of 2023
IN
IA No.357 of 2023
IN
CP(IB) No. 268 of 2020

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

IA No.1058 of 2023

IN

IA No.357 of 2023

IN

CP(IB) No. 268 of 2020

(Filed under Section 60(5) read with Section 18(f) and Section 25 of the Insolvency & Bankruptcy Code, 2016)

IN THE MATTER OF:

Arrow Engineering Ltd.

...Applicant

IN THE MATTER OF:

Suraksha Realty Ltd.

... Applicant

Versus

AVM Resolution Professionals LLP

... Respondent

IN THE MATTER OF:

Arrow Engineering Limited

...Financial Creditor

Versus

Golden Tobaccco Limited

...Corporate Debtor

Order pronounced on 22.03.2024

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

IN THE MATTER OF:

Arrow Engineering Ltd.

Arrow House No.1,
Arrow City Manhattan Village
Kandalepada, Tal: Pen,
Goa Highway, NH-17, Raigarh
Raigarh – MY- 402107IN

...Applicant

Present:

For the Applicant : Mr. Robin Jaisinghani Adv. a/w. Mr.
Jacinta D Silva, Adv.

For the RP : Mr. Anurag Bisaria, Adv.

For the Respondent : Mr. Saurabh Soparkar, Sr. Adv. a.w Mr.
Jay Kansara, Adv. & Ms. Adrita Bhuyan

JUDGEMENT

1. The present application is filed by Arrow Engineering Limited (hereinafter referred to as AEL) seeking impleadment in IA 357 of 2023 and requesting for such further and other orders as this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case.
2. The grounds on which impleadment in IA 357 of 2023 is sought is that in IA 357 of 2023 the Applicant therein has made several allegations against the present applicant including that the IRP is colluding with the AEL in order to prejudice the rights of the other financial creditors.
3. Applicant submitted that any order in favour of applicant in IA 357 of 2023 is bound to adversely affect the interest of the present Applicants viz. AEL. The Applicant submitted that the present Applicant is entitled to an opportunity of hearing to oppose IA 357.
4. Respondent submitted that the present application is not maintainable in law, as AEL has no locus and is not a proper and necessary party in IA 357 of 2023. Respondent further

submitted that this Tribunal in IA 777 of 2022 has already adjudicated upon the impleadment the present applicant (financial creditor) which is a proceeding filed by other financial creditors regarding their claim and has categorically held that issues regarding rejection of the claims are between the IRP and claimants and thus other third parties have no locus in the matter. This ex-facie demonstrates that AEL has no locus to be added as a party to the said application. In fact, the aforesaid order dated 21.12.2022 has not been challenged by AEL and has therefore attained finality. Respondent further submitted that the present IA is barred by res-judicata and is therefore illegal, and ought to be rejected.

5. The Resolution Professional, the respondent in IA 357 of 2023 by way of affidavit dated 26.02.2024 submitted to have no objection if the present applicant is also impleaded as a party respondent in the IA 357 of 2023 so as to afford it an opportunity to directly respond to the allegations that have been made against the applicant therein.

6. Heard the applicant and the respondent and perused the documents submitted. It is pertinent to note that the applicant has also been the participant in the CoC constituted on acceptance of claims from creditors of the Corporate Debtor and contributes to 98% of the voting shares of CoC. Neither stated collusion between the Resolution Professional and present applicant have been established by any document produced by the respondent either in this matter or in the IA 357 of 2023. The applicant in IA 357 of 2023 have also not made any prayers against the present applicant for not considering his claims or his removal from the CoC. The matter under reference in that IA and prayers is for their consideration as a claimant for principal and interest with secured status which is yet to be adjudicated. Hence there would be no locus standi of present applicant to be made a respondent in the IA 357 of 2023 as the prayers sought do not have any bearing against the any allegations, if any, made against the applicant. It is for the Resolution Professional to reply the facts of the case. Accordingly the respondent in the

matter is restricted to the Resolution Professional and none other for the purpose of adjudication of the IA 357/2023 by this Tribunal.

7. Hence we pass the following order:

ORDER

IA 1058/2023 in IA 357/2023 in CP(IB) 268 of 2020 is rejected.

-sd-

**DR.V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

-sd-

**CHITRA HANKARE
MEMBER (JUDICIAL)**