

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Through web-based video conferencing platform)

ITEM No.13
I.A No. 249/2022
CP (IB) No.199/BB/2018

IN THE MATTER OF:

M/s. ICICI Bank Limited ... Petitioner
Vs.
M/s. Opto Circuits (India) Ltd ... Respondent

Order under Section 7 of Insolvency and Bankruptcy Code, 2016

CORAM:

Order delivered on 19.09.2022

SH. KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant in I.A : Shri Francis Xavier
For the Respondent : Shri Samarth Sreedhar

ORDER

I.A. NO. 249 of 2022

1. The instant application has been filed by M/s. ICICI Bank Limited (hereinafter as 'Applicant / Financial Creditor') under Rule 11 & 32 of the NCLT Rules, 2016 seeking to restore/resume the CIRP proceedings initiated by this Hon'ble Tribunal in C.P (IB) No. 199/BB/2018 dated 10.08.2018 in view of the default committed by the Corporate Debtor in the settlement agreement dated 10.07.2020.
2. It is *inter alia* stated that this Adjudicating Authority *vide* order dated 17.08.2020 in I.A No. 273 of 2020 disposed of the main Petition CP (IB) No.199/BB/2018 in light of settlement arrived between the Parties. The following directions was passed by this Adjudicating Authority:
 - a. *The CIRP proceedings initiated vide an order dated 18.03.2020 passed in C.P (IB no. 199/BB/2018 are hereby terminated and consequently the main C.P (IB) No. 199/BB/2018 stands disposed of;*

- Sd-

- b. All actions taken by Resolution Professional stands nullified and the status of the Corporate Debtor is restored status-quo ante to initiation of CIRP and it can carry on its normal business functions;
- c. The Resolution Professional is directed to hand over all the records of the Corporate Debtor to its management immediately. He is further directed to intimate all concerned Authorities and stakeholders of Corporate Debtor by giving suitable notification about the cessation of CIRP in respect of the Corporate Debtor.
- d. The Corporate Debtor is directed to strictly adhere to terms and conditions of One Time Settlement in question, failing which, the Petitioner/ICICI Bank is entitled to file fresh Company petition in accordance with provisions of code.
- e. No order as costs.
3. It is stated that the Financial Creditor issued two reminder letters to the Corporate Debtor dated 16.08.2020 and 25.08.2020 seeking update on the OTS but there was no reply from the Corporate Debtor. Subsequently, aggrieved by the impugned order dated 17.08.2020 passed by this Adjudicating Authority in I.A No. 273 of 2020 directing the Financial Creditor to file a fresh company petition and in the event of default committed by the Corporate Debtor in adhering the terms and conditions stipulated in the One Time Settlement (OTS) letter dated 10.07.2020 as regard to the payment of the settlement amount, the Financial Creditor filed an appeal before the Hon'ble NCLAT, Chennai Bench in Company Appeal (AT) (CH) (Insolvency) no. 146 of 2021. The Corporate Debtor appeared and contested the matter on merit. The Hon'ble NCLAT on 28.04.2022 allowed the appeal filed by the Financial Creditor and modified sub para 4 of para 9 of the impugned order dated 17.08.2020 as under:

"Accordingly, this Tribunal pass the following order to be read in sub para 4 of para 9 of the impugned order dated 17.08.2020 as under:

It is made clear that in the event of default not adhering to the terms of "settlement agreement" as regards the payment of the outstanding instalment, the 'Financial Creditor' shall be at liberty to seek revival/restoration of the 'Corporate Insolvency Resolution Process' proceedings before the Adjudicating authority in C.P (IB) No. 199 of 2018."

4. Heard Shri Francis Xavier, learned Counsel appearing for the Applicant/Financial Creditor and Mr. Samarth Sreedhar Learned Counsel for the Respondent. Based on the above mentioned modified para in the Hon'ble NCLAT order, the Applicant has requested for restoration of the original C.P.

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5. In view of the order passed by the Hon'ble NCLAT in the Company Appeal, the instant **I.A No. 249 of 2022** is allowed and C.P is restored to its original file and listed on **20.10.2022**.
6. Accordingly, Issue Notice to the Respondent/Corporate Debtor. Registry is directed to prepare the notice and Counsel for the Petitioner is permitted to collect the notice and serve it on the Managing Director of the Respondent Company and also on the Respondent Company through ez mail as well as by speed post and is directed to file affidavit of service along with tracking report in the Registry within two weeks.

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(MANOJ KUMAR DUBEY) ✓
MEMBER (TECHNICAL)

- Sd -

(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)