



IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER
SHRI ATUL CHATURVEDI,
HON'BLE TECHNICAL MEMBER

IA No. 220/JPR/2023
In CP No. (IB)- 37/7/JPR/2021

IN THE MATTER OF:

**M/S INVESTMENT MANAGER OF L&T
INFRA INVESTMENT PARTNERS**

...Financial Creditor

VERSUS

RKV ENTERPRISES PRIVATE LIMITED

...Corporate Debtor

MEMO OF PARTIES

IA No. 220/JPR/2023:

RKV ENTERPRISES PRIVATE LIMITED

R/o: HNO.C-13, Jawahar Nagar, A-III, Kota,
Rajasthan-324005

...Corporate Debtor/Applicant

VERSUS

**M/S INVESTMENT MANAGER OF L&T
INFRA INVESTMENT PARTNERS**

R/o: Plot No. 177, CTS No. 6970, 6971
Vidyanagari Marg, CST Road, Kalina,
Santacruz (East), Mumbai, Maharashtra-
400098

...Financial Creditor/Respondent

FOR THE FINANCIAL CREDITOR
FOR THE CORPORATE DEBTOR

: Javed Khan, Adv.
: Mohit Sharma, Adv.



Order Pronounced On: - 16.06.2023

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. The Corporate Debtor i.e., *M/s RKV Enterprises Private Limited* has preferred the present application bearing No. *IA(IBC) No. 220/JPR/2023* seeking recalling of the order dated 23.01.2023 or modification/clarification to the extent of the Para which reads “*on the basis of said agreements annexed as Annexure- Q of the present IA; we are satisfied the applicant has sufficient locus standi to be impleaded as a party for necessary and proper adjudication of the case.*”
2. It is seen that the *Investment Manager of L & T Infra Investment Partners* (‘Financial Creditor’) had filed an application bearing *Company Petition (IB)- 37/7/JPR/2021* against the Corporate Debtor seeking CIRP u/s 7 of the Code.
3. The present application has been filed with regard to the order dated 23.01.2023 by which this Adjudicating Authority had allowed the Interlocutory Application *IA No. 573/JPR/2022*. The order dated 23.01.2023 is reproduced as below:

“Heard Mr. Javed khan, Adv. appearing on behalf of the Petitioner/ Financial Creditor and Mudit Sharma, Adv. appearing on behalf of the Respondent/ Corporate Debtor.

The present Interim Application No. 573/JRP/2022 is filed under rule 11 of NCLT rule 2016 read with rule 4 of IBC seeking to take



on record certain additional documents in CP No. (IB) 37/7/JRP/2021.

It is contended by the Applicant that it derives its locus standi in the present matter from an Investment Management Agreement dated 03.05.2013 wherein a trust/fund is managed by the Petitioner in the capacity of Investment Manager.

*In the interest of justice, the said agreement dated 03.05.2013 is taken on record. On the basis of said agreement annexed as Annexure-Q of the present IA; we are satisfied that the Applicant has sufficient locus standi to be impleaded as a party for necessary and proper adjudication of the case. The Applicant has prayed rectification in the memo of parties. Consequently, the amended memo of parties has been filed by the Applicant. The registry is directed to add the amended cause title in the main CP and showcase the name of the Applicant henceforth in the cause list as **Investment Manager of L&T Infra Investment Partners**.*

Meanwhile, the Respondent is at liberty to file any additional document/supplements if any, within 3 weeks.

Accordingly, the present IA is allowed in terms of the aforementioned directions.

List the IA along with the main petition for further consideration on 14.03.2023.”

4. The Applicant has filed this present application on being aggrieved by the fact that the said order passed by this Adjudicating Authority was never pronounced in open court and this non-listing of the matter for pronouncement of order and non-intimation have not only aggrieved the Applicant but also prejudiced its right to challenge the said order on merits before the Hon'ble NCLAT within the prescribed period of limitation.
5. Moreover, it is contended that on the date of hearing i.e., 23.01.2023, this Authority heard the arguments for both the parties only on the



Interlocutory Application *IA No. 573/JPR/2022* and reserved order on the said application. The order was not pronounced, dictated or made known in the hearing dated 23.01.2023. The counsel for the Corporate Debtor made bona fide assumption that the order reserved by the Authority, after hearing the arguments for both the parties, shall be listed for pronouncement in open court on the next date of hearing i.e., 14.03.2023 or any earlier date as may be notified.

6. Further, the counsel for the Corporate Debtor came to know about the order dated 23.01.2023 on 13.03.2023 while preparing for the matter which was next listed on 14.03.2023. Hence, the counsel for the Corporate Debtor came to know that the limitation period for their right / remedy to file an appeal against the order had already expired on 10.03.2023 as per Section 61 (2) of the Code. Therefore, the present application has been filed seeking recalling the order dated 23.01.2023.
7. We have heard the submissions made by the parties and perused the averments made in the Application.
8. The Counsel for the parties were heard at length on 23.01.2023 and the Daily order dated 23.01.2023 allowing the *IA No. 573/JPR/2022* was uploaded on the website of NCLT on 24.01.2023. While the Corporate Debtor argued that the order dated 23.01.2023 ought to have been put up for pronouncement separately, Financial Creditor submits that the order



was passed in the said *IA No. 573/JPR/2022* on 23.01.2023 and subsequently uploaded on 24.01.2023.

9. The Corporate Debtor has time and again submitted that the order was neither pronounced in open court nor put up for pronouncement in subsequent cause lists, hence the same ought to be recalled because it was passed without the knowledge of the Corporate Debtor.
10. It seems that the Corporate Debtor has not perused the Daily Orders of this matter and drawn an assumption that the order is reserved. From this Application, the Corporate Debtor is trying to curb the point of limitation for filing an appeal which is now over against the order dated 23.01.2023. There is no reasonable explanation as to why the counsel for the Corporate Debtor failed to peruse the Daily Order. As submitted, the Corporate Debtor came to know about this order as on 13.03.2023 while it was preparing for the arguments in the matter listed for 14.03.2023 but from the records, it is seen that the Application for recalling of the Order was filed on 17.04.2023, almost a month after it came to the knowledge of the Corporate Debtor. There is no rationale why this Application was not filed immediately after learning that via order dated 23.01.2023 the *IA No. 573/JPR/2022* was allowed.
11. The ignorance on part of the Corporate Debtor cannot be attributable to the validity of the Order dated 23.01.2023. The ignorance on part of the Corporate Debtor to check the uploaded Daily Order before drawing the



inference that the Order has been reserved, cannot be a valid ground for recalling of an order which was passed after hearing both the parties to the case. It is also noted that the order dated 23.01.2023 was uploaded the very next date.

12. Filing of such trivial IAs without any just or proper due diligence is discouraged in practise. However, we are not inclined to take any strict actions against the Corporate Debtor given to err his human.
13. In view of the foregoing, this Application bearing *IA No. 220/JPR/2023* in *CP No. (IB)- 37/7/JPR/2021* is dismissed as rejected.
14. The Registry is directed to supply copy of this Order to all the parties.

-Sd-
DEEP CHANDRA JOSHI,
JUDICIAL MEMBER

-Sd-
ATUL CHATURVEDI,
TECHNICAL MEMBER