

NATIONAL COMPANY LAW TRIBUNAL
COURT-I, MUMBAI BENCH

Item 1

IA 2312/2020 IA 460/2021 IA 1098/2021 IA 1271/2021 IA 1354/2021 IA 1994/2021 IA 1999/2021 IA 2404/2021 IA 2598/2021 IA 126/2022 IN C.P.(IB)920/MB/2020

CORAM:

SH. KAPAL KUMAR VOHRA
HON'BLE MEMBER (T)

JUSTICE P. N. DESHMUKH (Retd.)
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING ON **21.02.2022**

NAME OF THE PARTIES: - **State Bank of India**
V/s
Uttam Galva Steel Ltd

Appearance (via video-conference):

For the Applicant/FC
(in IA 2312)

: Mr. Zal Andhyarujina, Sr Adv with Mr. Hursh Meghani i/b Mr. Murtaza Somjee, Ms Rhia Marshall and Ms. Aditi Tiwari of Jerome Merchant + Partners

(in IA 460)
(in IA 1994)
(in IA 1098)

: Mr. Chetan Kapadia, Advocate
: Mr. Ravi Kadam, Sr. Adv.
: Adv. Akshat Khare i/b Moson Le Exparts

(in IA 2598)

: Ms. Maya Majumdar, Adv

For the CoC

: Mr. Soli Cooper, Sr Adv with Ms. Meghana Rajadhyaksha, Ms. Radhika Indapurkar, Ms. Shivani Sinha and Ms. Apeksha i/b Shardul Amarchand Mangaldas & Co.

For the RA

: Mr. Ravindra Kadam, Sr Adv with Ms. Ruby Singh Ahuja, Mr. Shahezad Kazi, Mr. Vishal Gehrana, Ms. Aishwarya Singh & Ms. Aditi Agarwal i/b S & R Associates

RP

: Mr. Milind Kasodekar;

For the RP

: Sr. Adv. Darius Khambata and Adv.

Chetan Kapadia a/w Mr. Nitesh Jain,
Mr. Siddharth Ranade, Mr. Ammar
Faizullabhoy, Ms. Nishi Bhankharia,
Ms. Ritika Ajitsaria and Ms. Angelika
Awasthi i/b Trilegal.

Sections 30, 60(5) & 7 of the IBC

ORDER

IA 2312

Financial Creditor (FC)/Applicant submitted Additional Affidavit dt 21.02.2022, wherein he has given some information on follow up by FC after disbursement of loan especially during 2016-18. In view of the submissions made by FC and other discussions, the following further clarification will be needed before the next date of hearing:

1. Details of follow-up by FC after 16.11.18 (Page 199 of Affidavit dt 21.02.22);
2. Internal criteria of FC for classifying an account as NPA (Non-Performing Asset) or equivalent to 'NPA', comment on adherence to RBI norms for NPAs as followed by other banks;
3. As per information available with FC, was FC shown as Creditor by CD in books of CD anytime, if so for which period, was FC included as Creditor in B/S of CD.

The following information was sought from Respondent (RP/CD):

1. Audited B/Ss of FYs 2015-16 to 19-20 with List of Creditors (or large Creditors >10cr each) n Shareholders/Promoters, including extracts of Schedule III of Companies Act, Part F showing loans from banks);
2. When FC gave notices to CD in 2016 and 2018, why did CD not reply that FC not included in B/S;
3. When there was agreement signed by CD for bill finance (ie payment to 3rd parties), disbursement of funds by FC to PNB (SWIFT message etc), servicing of debt by interest (3.2.16), details of double entries passed in t/o Sec 128 of Companies Act, how long and how shown in B/Ss wrt FC (DB) n Mitsui (which supplied goods);
4. Did FC substitute Mitsui as Creditor;
5. Role and duties of RP u/s Sec 18 (b) of IBC include to receive n collate (not restricted to B/S entry), how this was followed for claim of FC;
6. Any related development CD feels Court should know.

Respondent was directed to give details of the transactions with reference to Mitsui as well as Deutsche Bank for treating them as Creditor and their reflection in the audited financial statements. During the Hearing, Respondent did not elaborate the points raised by him in reply dated 25.06.21 submitted to this court, but requested for time to give complete details including for the above clarifications on the next date of hearing. Request is allowed. Respondent has agreed to furnish relevant documents by 28.02.2022 including 2 pages summary by duly serving copies to the other side.

FC will also be at liberty to furnish any further document with 2 page summary by 28.02.22. Another issue which came up for discussion was repayment of loan of FC by CD as per order of Hon'ble Supreme Court to bring Arcelor Mittal in the category of 'Not Defaulter' and eligible for making bids in another case as Resolution Applicant (Page 188, 199 of Affidavit dt 21.02.22). Both parties will be at liberty to include their views on this point in their written submissions. List this matter on **03.03.2022**.

IA 1098

This is an Application filed by the Operational Creditor/ Applicant (GAIL) for acceptance of his claims of Rs 9,000 Crores as against accepted amount of Rs 167 Crores by RP. Applicant states that he is entitled to receive amount of minimum entitlement for each of the future years as well as per the agreement. Respondent (RP) has stated that RP has accepted all the claims which accrued as on the date of initiation of Corporate Insolvency Resolution Process and nothing is payable more. Respondent has stated that he needs some time to confirm the amount claimed by the Applicant (GAIL) as liability in the audited financial statements of CD which may be around Rs 167 cr. Applicant also needs some time to confirm whether this amount as claimed

by him was shown in the audited Financial Statements of the Operational Creditor or not. Accordingly, both the parties are directed to file Written Submissions not more than two pages each along with any Judgments, if any, by 28.02.22. List this matter on **03.03.2022**.

IAs 1271 & 1354

List these Applications on **10.03.2022** for hearing.

IA 1994

This is an Application filed for urgent listing of the Application bearing IA 1271 of 2021, filed for the Approval of Resolution Plan. The Application bearing IA 1271 of 2021 is now coming up on Board for hearing on 10.03.2022 along with connected Application bearing IA No. 1354 of 2021. Accordingly, **IA 1994** of 2021 is **disposed of in above terms**.

IA 2598

We have observed that the Hard Copies of this Application have not yet been filed. Applicant is directed to file two sets of Hard Copies well before the adjourned date. List this matter on **04.03.2022**.

IA 460

Applicant submits that by order dt. 11.02.2022, this Application is disposed of as infructuous; however, in that order, IA '75' was mentioned inadvertently instead of IA '460'. We have verified the prayers made in IA 460 and also verified with the original order which substantiate the contention of the Applicant. In that view of the matter, office to mention IA 460 of 2021 by deleting IA 75 of 2021 in order dated 11.02.2022 in its title and in the

operative part of the order. Corrected copies be uploaded on the system. Needless to say, that the Application bearing **IA 75 of 2021 shall stand as it is**. Accordingly, **IA 460 of 2021 is disposed of**.

IA 1999/2021, IA 2404/2021 & IA 126/2022

List these Applications on **04.04.2022**.

Sd/-
KAPAL KUMAR VOHRA
Member (Technical)

Vedant

Sd/-
JUSTICE P. N. DESHMUKH
Member (Judicial)