IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI

IA/693/IB/2020 in CP/1006/IB/2018
(Filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

Along with

IA/(IBC)/1697/CHE/2023 in CP/1006/IB/2018
(Filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

K. Narayanasamy
S/o. Late Mr. Kandasamy
Suspended Director,
12B, RK Enclave, SRKV Post,
Coimbatore – 641 020

.. .. .. *Applicant*

-Versus-

1. **J. Karthiga**
Resolution Professional of
GK Steel and Allied Industries Limited
Sri Nivas, No. 1, Old No. 1052,
41st Street, Korattur, Chennai – 600 080

2. **State Bank of India**
Represented by its Authorized Representative
Stressed Assets Management Branch
Raja Plaza, First Floor, No. 1112, Avinashi Road,
Coimbatore – 641 037

3. **IFCI Limited**
Regional Office
Continental Chamber, 2nd Floor, 142, MG Road,
Nungamabakkam, Chennai – 600 034

4. **International Asset Reconstruction Company Pvt. Ltd. (IARC)**
Represented by its Authorized Representative.
Door No.1, 9th Floor,
Prasanth Real Gold Tower,
D No.39, North Usman Road, T. Nagar,
Chennai – 600 017

.. .. .. *Respondent*

Along with

IA/(IBC)/828/CHE/2023 in CP/1006/IB/2018

(Filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***GK Steels & Allied Industries Limited***

K. Narayanasamy
S/o. Late Mr. Kandasamy
Suspended Director,
12B, RK Enclave, SRKV Post,
Coimbatore – 641 020

.. .. .. *Applicant*

-Versus-

J. Karthiga
Resolution Professional of
GK Steel and Allied Industries Limited
Sri Nivas, No. 1, Old No. 1052,
41st Street, Korattur, Chennai – 600 080

.. .. .. *Respondent*

Present:

For Applicant	:	*Srinath Sridevan, Senior Advocate* *For Suspended Director of Corporate Debtor.*
For Respondent	:	*V.V. Sivakumar, Advocate* *For RP* *Ravi Rajagopalan, Advocate* *For R4 – IARC.*

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

*Order Pronounced on **29th November 2023***

COMMON ORDER

(Heard through Video Conferencing)

IA/693/IB/2020 is an application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking reliefs as follows:

(i) Pass an order thereby directing the first Respondent Resolution professional to exclude the amount of interest claimed by the Respondents 2 & 3 towards the outstanding dues of the Corporate Debtor for the period of 01.06.1999 to 31.12.2016 as the Corporate Debtor was a sick undertaking and proceedings were pending BIFR as the contract stood suspended under Section 22 of SICA and consequently declare that the amount claimed by the Financial Creditors before the RP with usurious rate of interest is not valid;

(ii) Pass an order thereby directing the first Respondent Resolution Professional to exclude claim of the fourth Respondent IARC from the list of Financial Creditors of the Corporate Debtor and consequently directing her to declare the fresh list of the Financial Creditors with their revised percent of voting rights in the CoC and for further other reliefs.

(iii) Pass such further or other orders as this Hon'ble Tribunal may deem fit and proper to grant to the Applicants such further relief in the circumstances of this case and in the interest of justice and thus render justice.

2. IA(IBC)/1697(CHE)/2023 is an Application filed by the Applicant seeking leave of this Tribunal to file certain additional documents.

3. Since there is no objection on the part of the Respondent, IA(IBC)/1697(CHE)/2023 stands **allowed**. The Additional documents are taken on record.

4. IA(IBC)/828(CHE)/2023 is an Application filed by the Suspended Director of the Corporate Debtor under Section 60(5) of IBC, 2016 seeking reliefs as follows;

> *(i) Allow the present interim application seeking for intervention in MA/37(CHE)/2021 in CP/1006/IB/2018;*
>
> *(ii) Pass any such further and other orders as this Hon'ble Adjudicating Authority may deem fit in the facts and circumstances of the case.*

5. This Tribunal vide its order dated 13.01.2023 had dismissed the IA/693/IB/2020 stating reasons as follows;

> **IA/693/IB/2020:**
>
> The Applicant is represented by the Ld. Counsel Mr. Jhabakh physically present before this Tribunal.
>
> This Application has been filed seeking the following relief:
>
> (i) Pass an order thereby directing the first Respondent Resolution Professional to exclude the amount of interest claimed by the Respondent 2 & 3 towards the outstanding dues of the Corporate Debtor for the period of 01.06.1999 to 31.12.2016 as the Corporate Debtor was a sick undertaking and proceedings were pending BIFR as the contract stood suspended under Section 22 of SICA and consequentially declare that the amount claimed by the Financial Creditors before the RP with usurious rate of interest is not valid;

(ii) Pass an order thereby directing the first Respondent Resolution Professional exclude claim of the fourth Respondent IARC from the list of the Financial Creditors of the Corporate Debtor and consequentially directing her to declare the fresh list of the Financial Creditor with their revised percent of voting rights in the CoC and for further other reliefs.

(iii) Pass such further or other orders as this Hon'ble Tribunal may deem fit and proper to grant to the Applicants such further relief in the circumstance of this case and in the interest of justice and thus render Justice.

The prayer 1 is not pressed

The case of the Applicant promotor director is that the RP should not admitted the claim of IARC on the ground that the assignment of the debt from ICICI bank to Standard Chartered Bank and thereafter to IARC is not valid in law to support that the Applicant relies upon the proceedings before the DRT and order of the DRAT dated 09.07.2018.

The operative portion order is as follows:

> *On careful perusal of pleadings of the parties submissions of the Counsel of parties, citations and record, it becomes clear that O.A. is still pending. R1, R2 and R3 Financial Institutions are looking for recovery of money since 1997-98. In the year 2012, Assignment Deed was registered in the State of Tamil Nadu. What would be the consequence of registration of the Assignment Deed of 2006 in Maharashtra has to be examined. In view of the facts and circumstances of this case, on this ground alone, O.Aof R3 should not be and cannot be dismissed. Rather, merits of the case has to be examined. However, PO of DRT has directed examine the legality of Assignment Deed of 2006 oh merits according to law in final order to be passed in O.A. after hearing all the parties.*
>
> *In view of the above, Appeal stands dismissed. It is made clear that this Tribunal has expressed no opinion on the legality of Assignment Deed at this stage. This point is kept open for PO of DRT.*
>
> *Appeal is dismissed.*

From this it is evident that on the issue raised by the Applicant no final order has been passed even by the DRAT or DRT.

Significantly, Prayer (ii) becomes irrelevant and not sustainable. Accordingly, IA/693/18/2020 stands **dismissed**.

6. Aggrieved by the said order passed by this Tribunal, the Applicant preferred an Appeal before Hon'ble NCLAT in Company Appeal (AT)(Ins) No. 61 of 2023. Hon'ble NCLAT vide its order dated 08.06.2023 set aside the order passed by this Tribunal and held as under;

> 3. It is the case of the Learned Counsel for the Appellant that the Impugned Order is a non-speaking Order which does not disclose the reasons for the dismissal of the IA No. 693/2020 and is contrary to the Principles of Natural Justice'. It is also submitted by the Counsel that it was wrongly recorded that they did not press for Prayer 1 in the Application, but the Order was passed, despite no such submissions having been made by the Counsel. The Learned Counsel for the Appellant' sought an opportunity to be heard before the Adjudicating Authority on merits of the matter specifically on the ground that the Application has raised repeated objections to the Constitution of the CoC. Be that as it may, the Learned Counsels appearing for the Respondents No. 1 & 4 submitted that they do not have any objection if the matter is remanded to the Adjudicating Authority', for deciding the Application' on merits.
>
> 4. Taking into Consideration, the submissions of both the Parties as well as the facts of the case on hand, this "Tribunal' is of the considered view that in the interest of Justice, an opportunity may be accorded to the Appellant', herein to be heard on merits, before the Adjudicating Authority' and therefore, we find it a fit case to remand the matter to the 'Adjudicating Authority' and the 'Adjudicating Authority' shall decide the 'Application' within a period of 'four weeks' from the date of this Order. It is made clear that this 'Tribunal' has not commented on the merits of the matter and the Adjudicating Authority' shall proceed in accordance with Law, uninfluenced by any observations in this Order.
>
> 5. For the aforenoted reasons, this Appeal' is allowed and the Order of the Adjudicating Authority in IA No. 693/2020 is set aside and the matter is remanded back to the Adjudicating Authority for fresh adjudication on merits All parties shall appear

before the Adjudicating Authority on 15/06/2023. No Costs. The Connected pending Interlocutory Application, if any, are closed

7. Accordingly, the present Application has been taken up for hearing.

8. In relation to IA/693/IB/2020, the Learned Counsel for the Applicant submitted that the Corporate Debtor was declared as a sick company by the Board of Industrial and Financial Reconstruction vide Order dated 06.01.1999. Pursuant to the Corporate Debtor being declared as a sick company, as per Section 22 of the Sick Industrial Companies Act, 1985, ("SICA") all the legal proceedings and contracts involving the Corporate Debtor would come to a standstill and stand suspended. Therefore, the loan agreement entered into between the Corporate Debtor and the Financial Creditors would also come to a standstill as a result of which interest ought not to have been charged on the loans taken by the Corporate Debtor. Considering that the Corporate Debtor has been under the BIFR proceedings from year 1999 until December 2016 when SICA was repealed, the Corporate Debtor is not liable to pay the interest on the loans during this entire period. It is stated that the claim of the Financial Creditors cannot include the

interest from 06.01.1999 until the date when SICA was repealed i.e. 01.12.2016 (nearly a period of 17 years).

9. It is stated that the RP has admitted the entire claim of Rs.2,11,10,56,442/- inclusive of the interest of the 2nd Respondent. In respect of the 3rd Respondent, a sum of Rs.1,03,61,01,211/- inclusive of interest is admitted by the RP. In respect of the 4th Respondent, a sum of Rs.78,86,80,723/- is admitted by the RP inclusive of interest. It is stated that the realization value of the Financial Creditor is around 0.7% at present. However, the realization value after the exclusion of the interest would be 77.5%. It is submitted that the 1st Respondent herein has failed to properly verify the claims of the Financial Creditors as required by the law.

10. It is stated that the claims of the 4th Respondent herein are not genuine, and are unfounded. It is stated that the loan of the Corporate Debtor was assigned by the initial lender i.e. ICICI Bank Ltd. to the Standard Chartered Bank vide a Deed of Assignment dated 18.02.2006. This Deed of Assignment dated 18.02.2006 was executed in Bombay by the way of which ICICI Bank Ltd. assigned its debt and the underlying securities, which are situated in the State of Tamil Nadu in favour of the

Standard Chartered Bank. It is stated that this Deed was not executed or registered as required under Sections 17 and 28 of the Registration Act, therefore making this deed of assignment a void document. It is stated that the deed was registered in Bombay while the properties were situated in Tamil Nadu which was contrary to conditions laid down in Section 28 of the Registration Act, 1908. Since the registration of the properties did not happen at the place where the property is situated, the same is void.

11. It is stated that though the 4th Respondent has been arrayed as a party before the DRT, the same has been challenged by the Applicant as illegal before the DRAT. It is stated that the DRAT has taken the issue of assignment raised by the Applicant herein into consideration and remanded the case back to DRT for its further consideration by order dated 09.07.2018. It is further stated that the case before the DRT was however not followed by the 4th Respondent, due to which it was subsequently dismissed for non-prosecution.

12. It is stated that the issue relating to the assignment of loan remained unresolved by the DRAT and therefore the stance of the 1st Respondent that the 4th Respondent was admitted as a Financial Creditor since it was a party in the DRT proceedings is not tenable. It is

also stated that the Balance Sheet of the Corporate Debtor does not reflect the 4th Respondent as the Creditor of the Company.

13. It is stated that the issue pertaining to the calculation of interest as well as the assignment of loan to the 4th Respondent herein has been brought to the attention of the 1st Respondent herein through letters and also through representation in the CoC meetings, however, the 1st Respondent directed the Applicant to approach this Tribunal. Hence the Applicant resorted to filing the present application.

14. In light of the submissions made and the facts and circumstances of the case, it is prayed that the Application be allowed and the 1" Respondent be directed to exclude the amount of Interest claimed by the 2nd & 3rd Respondent herein towards the outstanding dues of the Corporate Debtor for the period between 01.06.1999 to 31.12.2016 and also be directed to exclude the claim of the 4th Respondent from the list of Financial Creditor and consequently prepare a fresh list of Financial Creditors with the revised percentage of voting rights.

REPLY OF 1ST RESPONDENT

15. The 1st Respondent / RP has filed his reply.

16. It is stated that the application in question is not maintainable either in law or on facts in as much as the applicant is a suspended Director who has no Locus Standi to file the application. It is stated that from a plain reading of this application, it is seen that it has been deliberately filed at this belated stage merely with a view to hindering the resolution process and to delay the proceedings before this Tribunal. It is alleged that this applicant has approached this Tribunal with unclean hands and this Application is required to be dismissed *in limine* on the grounds of lack of *locus standi.*

17. It is stated that the application seeking exclusion of interest claimed by the respondents towards the outstanding dues of the Corporate Debtor from 01.06.1999 to 31.12.2016 on the total claim amount as filed by the financial creditors is for the reason that the Corporate Debtor was under BIFR proceedings during this period, it is stated that it is a matter of record that the BIFR proceedings failed and no revival or rehabilitation was possible as per the SICA Act and a winding-up order was passed under Section 20 of the SICA Act against the Corporate Debtor for this reason. Also given the fact that SICA Act itself was repealed pursuant to the enactment of the Insolvency and Bankruptcy Code, 2016, this submission is not tenable. It is stated that,

even assuming without admitting that there is some merit in this submission, the statutory basis on which this statement is being made, has not been cited by the applicant.

18. With reference to the treatment of the 4th Respondent, International Asset Reconstruction Company Pvt. Ltd. as a creditor, it is stated that under the provisions of the IBC, the Resolution Professional does not have either the power or the authority to conduct a roving inquiry as to whether the 4th respondent was erroneously declared as a creditor by the DRT vide its order dated 29.11.2013 in OA 121/07. As of even date, the 4th respondent continues to be treated as a party Respondent by the DRT in the proceeding pending before it. Thus, it is not open to the Resolution Professional to question the judgment of the DRT, to act as an appellate authority and disregard the order passed in OA 121/07. Similarly, it is not open to the Resolution Professional to disregard the existing Assignment Agreement in favour of the 4th Respondent, unless there is an order of a civil court setting aside the said agreement.

19. It is stated that the claim made by the 4th respondent, was admitted within the parameters of the Insolvency and Bankruptcy Code. It is reiterated that the Resolution Professional does not have the

authority to travel and go beyond the Insolvency and Bankruptcy Code and doubt on the veracity of either the Assignment Deed in question or an order passed by a statutory tribunal substituting the 4th respondent as a party in the proceedings pending before it.

20. It is stated that the Resolution Professional has acted entirely in consonance the provisions of the Insolvency and Bankruptcy Code 2016 and finally, that the applicant, apart from making blanket averments, has not cited any statutory basis for such averments.

REPLY OF THE 4TH RESPONDENT

21. The 4th Respondent has filed the reply.

22. It is stated that the history of the litigation mounted by this Applicant would show that his sole objective is to subvert the insolvency resolution of the Corporate Debtor.

23. It is stated that apart from filing the present Application, the Applicant has vexatiously filed another Interlocutory Application bearing IA(IBC)/828(CHE)/2023 urging the very same grounds. The self-same issues were mounted by the Applicant before the Hon'ble DRT and the Hon'ble DRAT as well. It is stated that all these Applications must be dismissed on the grounds of being vexatious and frivolous and

filed with intent to delay the insolvency resolution of the Corporate Debtor.

24. It is stated that perusal of the prayer of the Applicant would show that the Applicant is assailing the very debt and default thereof which has been admitted and acknowledged both by him individually and by the Corporate Debtor in its books of accounts/financial statements. It is trite law that the veracity or admissibility of a debt cannot be challenged by him in an insolvency proceeding once the debt and default is acknowledged and proved.

25. It is stated that Section 22 of the SICA 1985 only operates as a bar to recovery of the same during the period before the BIFR and / or where a Plan is sanctioned by the BIFR for rehabilitating the sick company. It is an admitted fact that no Scheme for reviving the Corporate Debtor came to be approved and with the repeal of SICA 1985 in December 2019, the right to recover interest as well as the principal by the creditors stood revived.

26. It is stated that the verbiage of Section 22 of SICA 1985 contemplated only "suspension" and nowhere does it bar permanently or otherwise recovery of interest accrued during the period when the

Corporate Debtor was under BIFR. Neither does Section 22 vest any right for a sick company to claim exemption of interest or calculation thereof. All that Section 22 contemplates is a "stay" or "suspension" of legal proceedings, which has no application whatsoever to the case of this Applicant. Therefore, the financial creditors were perfectly entitled to calculate interest according to the Loan Agreements in question till the date of commencement of CIRP being the date on which claims can be admitted by the IRP/RP given that that the right to claim the same was conserved by Section 22. Thus, in the instant CIRP, the IRP/RP have rightfully admitted the claim of the 4th Respondent including interest calculated up to the date of commencement of CIRP.

27. It is stated that the assignment made by ICICI Bank, the original Lender to Standard Chartered Bank and then to 4th Respondent are in complete conformance to the Indian Stamp Act and Registration Act and would accord with the extant Rules as were in force as applicable to assignment of debts taking into account the fact that the 4th Respondent is an Asset Reconstruction Company.

28. It is stated that the Applicant had agitated this question before the Hon'ble DRT/DRAT and the same was disposed of by an Order which has attained finality. No Appeal / review or revision has been preferred

by the Appellant against the same. It is stated that the Applicant, after having been unsuccessful in pursuing his baseless cause before the Hon'ble DRT/DRAT, is now trying his luck by filing the present Application, that too at the anvil of a Resolution Plan approval. The CIRP of the Corporate Debtor commenced in Dec 2019 and the Appellant as a promoter has launched a vexatious and frivolous proceeding by projecting this prayer which has no basis in law.

29. It is stated that the Appellant has been forum-shopping this particular plea and it is his figment of imagination that the assignments made are purportedly in violation of the Stamp Act and Registration Act.

30. It is stated that in a summary proceeding like the insolvency proceedings under IBC, it is out of the ambit of the Adjudicating Authority to go into the details as regard the requirement or exemption of registration and or stamping of the Assignment Deed(s) and other related issues concerning the legality and issues concerning privity of parties to the Assignment Deeds.

31. It is stated that even on merits it can be seen that the subject matter of the assignments that are sought to be challenged by the Applicant herein are only "debts together with the underlying securities" and not

"conveyance" requiring registration as contended. A debt assignment transaction cannot be equated to conveyance of the underlying security being immovable property.

32. It is stated that the agreement in the instant case, is an "Instrument" defined in Section 2(14) of the Stamp Act seeking to transfer the debts along with rights/interest in the security underlying such debts. No immovable property has been transferred or sold. Merely the right under the contract to recover the debts has been transferred by way of an assignment deed. The Assignor has transferred only rights, it had, in the underlying securities. Since the borrower/Corporate Debtor/Guarantors never transferred the title in the immovable property given in security to the Assignor, therefore, the latter, by assignment could only transfer its rights i.e. mortgagee's/security holders rights in the property to recover the debts. The recitals of the Deeds of Assignment in this case would prove the same.

33. It is stated that the assignment deeds have been rightly executed and the Stamp Duty as applicable has been assessed and paid. The Resolution Professional has rightly admitted the claim taking into the documents and the debt due cannot be challenged by the erstwhile

Promoter/Applicant or called into question in the present proceedings. Hence sought dismissal of the present Application.

FINDINGS OF THIS TRIBUNAL

34. Heard the submissions made by the Learned Counsel for the parties and perused the records.

35. The Applicant in the IA/693/IB/2020 has sought to exclude the amount of interest claimed by the Respondent 2 & 3 towards the outstanding dues of the Corporate Debtor for the period of 01.06.1999 to 31.12.2016 as the Corporate Debtor was a sick undertaking and proceedings were pending before BIFR. Further, sought to exclude the claim of the 4th Respondent IARC from the list of the Financial Creditors of the Corporate Debtor.

36. Section 22 of SICA is extracted hereunder;

> **22. Suspension of legal proceedings, contracts, etc.—**
>
> (1) Where in respect of an industrial company, an inquiry under section 16 is pending or any scheme referred to under section 17 is under preparation or consideration or a sanctioned scheme is under implementation or where an appeal under section 25 relating to an industrial company is pending, then, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or any other law or the memorandum and articles of association of the industrial company or any other instrument having effect under the said Act or other law, no proceedings for the winding up of the

industrial company or for execution, distress or the like against any of the properties of the industrial company or for the appointment of a receiver in respect thereof and no suit for the recovery of money or for the enforcement of any security against the industrial company or of any guarantee in respect of any loans or advance granted to the industrial company shall lie or be proceeded with further, except with the consent of the Board or, as the case may be, the Appellate Authority.

(2) Where the management of the sick industrial company is taken over or changed in pursuance of any scheme sanctioned under section 18, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or any other law or in the memorandum and articles of association of such company or any instrument having effect under the said Act or other law—

(a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed at any meeting of the shareholders of such company shall be given effect to unless approved by the Board.

(3) Where an inquiry under section 16 is pending or any scheme referred to in section 17 is under preparation or during the period] of consideration of any scheme under section 18 or where any such scheme is sanctioned thereunder, for due implementation of the scheme, the Board may by order declare with respect to the sick industrial company concerned that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force, to which such sick industrial company is a party or which may be applicable to such sick industrial company immediately before the date of such order, shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adoptions and in such manner as may be specified by the Board: Provided that such declaration shall not be made for a period exceeding two years

which may be extended by one year at a time so, however, that the total period shall not exceed seven years in the aggregate.

(4) Any declaration made under sub-section (3) with respect to a sick industrial company shall have effect notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or any other law, the memorandum and articles of association of the company or any instrument having effect under the said Act or other law or any agreement or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order and accordingly,—

(a) any remedy for the enforcement of any right, privilege, obligation and liability suspended or modified by such declaration, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall remain stayed or be continued subject to such declaration; and

(b) on the declaration ceasing to have effect—

(i) any right, privilege, obligation or liability so remaining suspended or modified, shall become revived and enforceable as if the declaration had never been made; and

(ii) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability, the period during which it or the remedy for the enforcement thereof remains suspended under this section shall be excluded.

37. Section 22 of SICA, 1985 contemplate only "suspension" and nowhere bars permanently or otherwise recovery of interest accrued during the period when the Corporate Debtor was under BIFR. Further, Section 22 of SICAL does not vest any right for a sick company to claim exemption of interest or calculation thereof. Therefore, under the provisions of IBC, 2016, the financial creditors are entitled to calculate interest according to the Loan Agreements till the date of commencement of CIRP. In the instant case, we are of the view that the 1st Respondent / RP has rightfully admitted the claim of the 4th Respondent including interest calculated up to the date of commencement of CIRP.

38. In relation to the assignment made by ICICI Bank, the original Lender to Standard Chartered Bank and then to 4th Respondent herein, it is noted that the Applicant had already agitated the issue before the Hon'ble DRT/DRAT and the same was disposed of by way of an Order which has attained finality.

39. It is significant to point out that the Corporate Debtor had issued a letter dated 26.05.2018 to the 4th Respondent as follows;

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G.K. STEEL AND ALLIED INDUSTRIES LIMITED

Dindigul - Trichy Road, Thamaraipadi, Dindigul - 624005,

E-mail : gkallied.Ind@gmail.com

28/05/18
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May 26, 2018

To
Ms.Aruna Mannath
International Asset Reconstruction Company,
Chennai.

Madam,

SUB: Authorisation – Reg.

We hereby authorize Sri.G.Ramamoorthy, Managing Partner, "GANTI ASSOCIATES" Bombay, to act, deal, negotiate, arrive at a compromise and settle the dues to you on our behalf.

Thanking you,

For GK Steels and Allied Industries Ltd

Authorised Signatory.

40. It is seen that the Applicant / Corporate Debtor had already authorized a person to negotiate and to arrive at a compromise / settlement with the 4th Respondent on 26.05.2018. The OTS proposal given by the Applicant was rejected by the other Financial Creditors and also by the 4th Respondent. Thus, knowing fully well that the 4th Respondent is the Financial Creditor, the Applicant entered into negotiations with them for settling the dues. However, in the present Application, the Applicant has been raising frivolous and vexatious grounds and thereby creating hindrance to the CIRP of the Corporate

Debtor. We are of the view that the grounds raised by the Applicant in relation to the 4th Respondent does not warrant any merit and is required to be dismissed with heavy cost.

41. Further, it is seen that the Applicant has been forum-shopping in relation to the assignment of debts before DRT and also before this Tribunal. Thus, we are of the view that the present Application deserves to be dismissed with costs.

42. Accordingly, IA/693/IB/2020 stands **dismissed** with a cost of **Rs.1,00,000/-** (Rupees One Lakh Only) payable to the 'PM National Relief Fund' within a period of 10 days from the date of this order.

43. In relation to IA(IBC)/828(CHE)/2023 it is seen that the Applicant has raised the same ground as raised in IA/693/IB/2020 and sought to be implead in the Resolution Plan approval application.

44. It is relevant to refer to the Judgment of the Hon'ble NCLAT in the matter of **Dr. Ravi Shankar Vedam Vs. Tiffins Barytes Asbestos and Paints Ltd.** in *TA (AT) No. 134/2021 (Company Appeal (AT) (Ins) No. 653/2019) With TA (AT) No. 135/2021 (Company Appeal (AT) (Ins) No. 803/2019)* where para 89 of the Hon'ble Supreme Court judgment in *Arunkumar Jagatramka V. Jindal Steel & Power Ltd. & Anr. (2021) ibclaw.in*

46 SC, has been referred and it was held that the Foundational Principles of the Insolvency and Bankruptcy Code, cannot be disturbed and giving the Shareholder the locus to challenge the approval of the Resolution plan tantamount to disturbing the Foundational Principles of the Insolvency and Bankruptcy Code.

45. It is thus clear from the aforementioned judgment of the Hon'ble NCLAT that the Applicant herein has no locus to challenge the Resolution plan. Hence the present IA(IBC)/828(CHE)/2023 seeking to intervene in the Resolution Plan is **dismissed**. No Costs.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond