

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

C.P. NO. IB-271(PB)/2017

IN THE MATTER OF:

Srei Equipment Finance Limited.....Financial Creditor/Petitioner
v.

Wianxx Impex Private LimitedCorporate Debtor/Respondent

**SECTION: UNDER SECTION 7 OF THE INSOLVENCY AND
BANKRUPTCY CODE, 2016**

JUDGMENT DELIVERED ON 23.08.2019

CORAM:

CHIEF JUSTICE (RTD.) M.M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner: Mr. Arijit Mazumdar & Mr. Akshay
Chandna, Advocates

For the Respondent: Mr. Muneesh Malhotra, Mr. Rajat
Bhardwaj, Ms. Manpreet Kaur & Ms.
Vanya Khanna, Advocates

M.M.KUMAR, PRESIDENT

JUDGMENT

The 'Financial Creditor'-Srei Equipment Finance Limited has filed the instant petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') with a prayer to trigger the Corporate Insolvency Resolution Process in the matter of Wianxx Impex Private Limited.

2. The Corporate Debtor-Wianxx Impex Private Limited is a company registered under the provisions of the Companies Act, 1956 and was incorporated on 27.07.1995. The identification number of the Corporate Debtor is U74899DL1995PTC071191 and its registered office is situated at 1010-1011, 10th Floor, Devika Tower-6, Nehru Place, New Delhi-110019.

3. The Financial Creditor had initially proposed the name of Resolution Professional, Mr. Vinod Kumar Kothari to act as Interim Resolution Professional (for brevity 'IRP'). On account of his inability to act as IRP, the Financial Creditor filed an application being C.A. No. 990(PB)/2019 and proposed the name of Mr. Gopal Lal Baser with the address House No. M-356, First Floor, Orchid Island, Sector 51, Gurgaon, Haryana-122001 to act as IRP. His registration number is IBBI/IPA-002/IP-N00553/2017-2018/11677. He has filed his written communication which satisfies the requirement of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 along with the certificate of registration.


4. It is pertinent to mention that it is a second round of litigation between the parties as on previous occasion petition

under 7 of the Code being C.P. (IB) No. 54(PB)/2017 was filed by the petitioner. In the said petition the assertion of the petitioner was that initially in 2008 the Corporate Debtor approached the petitioner for availing financial facility for asset finance. On 26.03.2008 the petitioner sanctioned a loan of Rs. 25 Crores vide agreement dated 29.05.2008. However, later at the request of the Corporate Debtor the said loan was divided into four parts and four separate contracts were entered into between the parties being Contract No. HL0022255 for Rs.10 Crores dated 04.08.2008, Contract No. HL0028132 for Rs. 5 Crores dated 18.06.2009, Contract No. HL0028334 for Rs. 70,177,687/- and Contract No. HL0031754 for Rs. 29,800,000/-. Subsequently, again in 2010 the loan amount under the said four contracts were restructured by way of executing fresh nine contracts for aggregate loan of Rs. 26,50,06,533/-. Later on, once again on 29.03.2012 the said nine contracts were restructured by way of executing three contracts for aggregate loan of Rs. 25,73,96,034/-. Again in 2016 in view of difficulty in repaying the loans, the loan amount under the said three contracts were restructured by way of executing two contracts firstly being Agreement bearing No. 105996 dated 01.04.2016 for facility of

Rs. 18,86,00,000/- and secondly being Agreement bearing No. 111305 dated 24.06.2016 for facility of Rs. 19,53,00,000/-.

5. After service of notice the Corporate Debtor had filed its reply on 12.05.2017 and in para 3 of the reply had candidly admitted as under:

“The total amount due of Rs. 35,66,61,986/- on 31.03.2016 was again rescheduled by the Applicant into loan accounts with the understanding that for a period of one year Respondent is not liable to pay the instalment. Accordingly, it was agreed between the parties that first six months there would be moratorium of interest and balance six months’ interest shall be added to the loan amount. After adding the interest portion of one year (inclusive of moratorium of six months) in loan amount of Rs. 35,66,61,986/-, the total outstanding amount became Rs. 38,39,00,000/-. The total amount of Rs. 38,39,00,000/- was financed in the present two loan accounts and the instalment for the 1st loan account was due to be paid on 22.03.2017 and for the 2nd loan account was due to be paid on 22.06.2017. It is worthwhile to mention here that on the date of filing of the petition, there was no default as contemplated in Section 7 of the Insolvency and Bankruptcy Code, 2016. The present petition is pre-mature, and bundle of concealment of facts. The alleged amount due as on filing of petition was not due. The details of which is an

 under;

C.P. No.(IB)-271(PB)/2017

Srei Equipment Finance Ltd. v. Wianxx Impex Private Ltd.

Page 4 | 27

RESTRUCTURING OF RS. 35,66,61,986/-

<u>S.</u> <u>No.</u>	<u>PARTICULARS</u>	<u>AMOUNT (Rs.)</u>
<u>1.</u>	<u>1st RESTRUCTURED LOAN ACCOUNT</u> <u>(CONTRACT No. 105996)</u>	<u>18,86,00,000/-</u>
<u>2.</u>	<u>Balance Amount After Restructuring</u> <u>(35,66,61,986 – 18,86,00,000/-)</u>	<u>16,80,61,986/-</u>
<u>3.</u>	<u>Six Month Interest (7-12 months) on the</u> <u>1st loan account (Contract No. 105996)</u>	<u>1,44,04,750/-</u>
<u>4.</u>	<u>Six Month Interest (7-12 months) on the</u> <u>2nd loan account (Contract No. 111305)</u>	<u>1,28,36,113/-</u>
<u>5.</u>	<u>Total amount of the 2nd Loan Account</u> <u>(Contract No. 111305)</u> <u>[16,80,61,986+1,44,04,750+1,28,36,113]</u>	<u>19,53,02,863/-</u> <u>Round Off:</u> <u>19,53,00,000/-</u>

6. Subsequently, vide order dated 30.05.2017 passed by this Tribunal the said petition was dismissed as withdrawn with liberty to file fresh one, if such necessity arises and the said order reads as under:

“This is an application with a prayer to grant permission for withdrawal of the Company Application No. (IB)-54(PB)/2017 with



liberty to file fresh one as the cause of action in some respect appears to be pre-mature.

Notice of the application was given and we have heard arguments. The application has been opposed by the learned counsel for the non-applicant-respondent.

Having heard the arguments, we are of the considered view that once a financial creditor applies for withdrawal of the application, then the examination on facts should be avoided so that interest of either of the parties are not prejudiced. Keeping in view the aforesaid principle, we are not opining on the merit of the controversy either way and are inclined to allow the application.

In view of the above, the application is allowed and Company Application No. (IB)-54(PB)/2017 is dismissed as withdrawn with liberty to file fresh one, if such necessity arises.

Application stands disposed of.”

7. The present proceeding has been initiated on account of the default committed by the Respondent in repayment of its dues under the Loan Agreement dated 01.04.2016 bearing Contract No. 105996 (Pg. No. 212-245 of Vol. II). As per the petitioner the repayment under the Loan Agreement was to commence from September 2016 (Annexure II to Schedule VII @ Pg. 243 of Vol. II). The Petitioner has realized the instalments for the months of

September 2016 till February 2017. However, the instalments for the months of March 2017 to July 2017 amounting to Rs. 5,13,47,660/- has not been paid by the Respondent.

8. The total amount claimed to be in default and the details of default have been given in sub para 2 of Part-IV and the same reads as under:

2. AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH DEFAULT OCCURED	Contract No.	Amount Claimed to be in Default (In Rs.)	Date on which default occurred	Days of Default
		105996	9,595,921	22-03-2017
	105996	86,363	31-03-2017	120
	105996	9,595,921	22-04-2017	98
	105996	367,236	30-04-2017	90
	105996	9,595,921	22-05-2017	68
	105996	695,372	30-05-2017	60
	105996	9,595,921	22-06-2017	37
	105996	2,325	30-06-2017	36
	105996	974,869	22-07-2017	29
	105996	9,595,921	29-07-2017	7
	105996	1,241,890	22-03-2017	1

Total	51,347,660		
Total Default			
Particulars	Amount Claimed to be in Default (in Rs.)		
Overdue & Other Charges	51,347,660		
Balance Principal Outstanding	162,820,763		
Total Default	214,168,423		
Days of Default has been calculated upto 29-07-2017			

Thus, the case of the petitioner is that on 29.07.2017 a sum of Rs. 214,168,423/- is outstanding and the petition has been filed on 04.08.2017.

9. The details of the securities held by, or charge created for the benefit of 'financial creditor'-Srei Equipment Finance Limited which fulfils the requirements of Section 77 & 78 of Companies Act, 2013 have been given in Part V of the application.

10. The Financial Creditor has also placed on record a list of all the financial facilities granted by the Financial Creditor to the



Corporate Debtor along with the copies of the said Financial Contracts.

11. Learned counsel for the Corporate Debtor has opposed the admission of the petition by asserting as under:-

- (i) An amount of Rs. 50,31,41,663/- have been paid to the Petitioner on various dates starting from March 2008.
- (ii) In addition to above the Respondent is in the process of getting details of payment for an amount of Rs. 4,30,00,000/- made to the Petitioner.
- (iii) An adjustment of Rs. 10,99,54,880/- to be made on account of some advance against property.
- (iv) The total payment received and the amount adjusted against the property has been intentionally not brought to the knowledge of this Tribunal with mischievous intention.
- (v) The initial agreement dated 29.05.2008 by which loan was granted to the Respondent has arbitration clause which specifically reflects that the dispute is to be resolved through arbitration.



- (vi) As per the understanding, it was agreed that in case of default on the part of the Respondent, the Petitioner would take over the possession of the property, which has been allotted as collateral security to the Petitioner and are of a very high value and in such premises the Petitioner does not have the option to initiate the present proceedings.
- (vii) As per its own version of the petitioner, it has provided the facility of 'equipment finance' to run the operations of the Respondent and thus there was no amount that was credited to the account of the Respondent.
- (viii) The applicant had no authority to work as NBFC on the day of Agreement, whereas, the alleged loan has been granted prior to registration (raised vide diary No. 576 dated 05.02.2018)

12. A rejoinder to the reply has been filed by the Financial Creditor reiterating the submissions made in the petition and controverting the assertions in the reply.

13. Vide diary No. 1691 dated 27.03.2018 petitioner has filed an affidavit along with certificate of Registration dated 15.05.2007



(Annexure A-1), showing that it is registered as a Non-Banking Finance Company (NBFC). The certificate issued by Reserve Bank of India in favour of SREI Infrastructure Finance Limited. Two other certificates dated 12.06.2007 & 03.09.2008 (Annexure A-2 & A-3) of similar nature have also been filed with the said affidavit. It has been highlighted that originally in the year 2008, the loan was sanctioned and granted by SREI Infrastructure Finance Limited which is having certificate of Registration dated 15.05.2007 (Annexure A-1), as Non-Banking Finance Company (NBFC) issued by Reserve Bank of India in its favour (Annexure A-1) before the date of loan agreement dated 29.05.2008.

14. Afterwards vide diary No. 3737 dated 06.06.2018 petitioner has filed a supplementary affidavit along with bank transfer receipt (Annexure-A) showing disbursement of Rs. 18,86,00,000/- on 01.04.2016 to the Respondent and a certificate under Section 2-A of the Bankers Books Evidence Act, 1891 (Annexure-B). The petitioner has asserted that the Respondent has made payment of Rs. 18,86,00,000/- on 13th April, 2016 and 16th April, 2016 and thereafter of Rs. 16,80,62,000/- from 5th July, 2016 and 19th July, 2016 as would be evident from pgs. 11 & 12 of the counter affidavit filed on

behalf of the Respondent. Thus, the sum of Rs. 35,66,62,000/- which has been paid by the Respondent to the Petitioner is on account of its previous outstanding of Rs. 35,66,61,986/- which was outstanding on the part of the Respondent as on 31st March, 2016 as was unconditionally and unequivocally admitted by the Respondent in page 24 of its counter affidavit filed by it in the prior proceeding (I.B. No. 54(PB)/2017). A sum of Rs. 18,86,00,000/- was once again disbursed to the Respondent by the petitioner on 1st April, 2016 which is still due and payable to it.

15. Another supplementary affidavit has also been filed by the petitioner vide diary No. 5265 dated 03.08.2018 along with a copy of confirmation of transaction (Annexure-B) from petitioner's account to the Respondent's account for a sum of Rs. 18,86,00,000/- on 13.04.2016 issued by ICICI Bank. The petitioner has claimed that it is an independent transaction and having no relevancy with the previous one.

16. Objection regarding authorisation in favour of Mr. Shiv Shankar Chowdhury has been raised by the Respondent by filing replies vide diary No. 4470 dated 10.07.2018 & thereafter vide

diary No. 5777 dated 20.08.2018. It is asserted that Mr. Shiv Shankar Chowdhury is not authorized by the Petitioner to file the supplementary affidavit as the power of attorney authorising him has expired on 31.03.2018 and subsequently he has been changed without the permission of this Tribunal. A table showing different versions and contrary stands taken by the petitioner on various occasions has been prepared by the Respondent and the same reads as under:

S. No.	As per the 1 st Application	Present Application	Supplementary Affidavit
1.	The applicant granted fresh financial facility to the corporate debtor under two loan agreements dated 01.04.2016 and 24.06.2016 totalling to an amount of Rs. 38.39 crores for acquiring assets for the project	The applicant sanctioned the loan of Rs. 25 crores vide agreement dated 29.05.2008 which was restructured	The applicant executed a loan agreement dated 01.04.2006 and made a disbursement of the amount of Rs. 18.86 crores to the corporate debtor.
2.	In 2016 the corporate debtor has approached the applicant for availing financial facility	In 2008 the corporate debtor has approached the applicant for availing the loan facility	Disbursed a sum of Rs. 18.86 crores
3.	Fresh disbursement of Rs.	Loan of Rs. 25	Loan of Rs. 18.86



	38.39 crores	Crores disbursed in 2008	
4.	Date of default is 23.06.2016	Date of default is 22.03.2017	
5.	Application relates to an amount of Rs. 38.39 crores	Application relates to an amount of Rs. 25 Crores	Application relates to an amount of Rs. 35 Crores
6.	Total default value of Rs. 1,98,81,596/-	Total default value of Rs. 21,41,68,423/-	Total default value of Rs. 18,86,000,00/-

17. Subsequently vide diary dated 28.03.2019 Respondent has filed an affidavit along with letter issued by YES Bank dated 10.08.2018 (Annexure R-1) to substantiate the fact that the amount of Rs. 18.86 crores under the loan agreement dated 01.04.2016 was credited in its account and it immediately paid back the entire amount to the petitioner in two tranches firstly on 13.04.2016 for a sum of Rs. 17 crores and secondly on 16.04.2016 for a sum of Rs. 1.86 crores. It has also asserted that the said amount has not been paid towards any previous outstanding.

18. We have heard learned counsel for the parties and have also perused the record.



19. Having heard learned counsel for the parties we are of the considered view that the Financial Creditor has succeeded in establishing a case for triggering the Corporate Insolvency Resolution Process.

20. The Financial Creditor has placed on record numerous proof of amount disbursed as loan to the Respondent Company. The material on record and the documents clearly depict that the loan was sanctioned and disbursed. Respondent company utilized and enjoyed the loan facility.

21. The Corporate Debtor in previous round of litigation had candidly admitted the restructuring of total loan amount of Rs. 35,66,61,986 by way of executing two contracts firstly being Agreement bearing No. 105996 dated 01.04.2016 for facility of Rs. 18,86,00,000/- and secondly being Agreement bearing No. 111305 dated 24.06.2016 for facility of Rs. 19,53,00,000/- as detailed in preceding para 5 of the order. It is also evident from a perusal of supplementary affidavit dated 03.08.2018 read with a copy of confirmation of transaction (Annexure-B) that a sum of Rs. 18,86,00,000/- was further disbursed by the petitioner on 13.04.2016 to the Respondent after aforesaid candid admission



by it and the said amount is an independent transaction and having no relevancy with the previous one. It does not lie in the mouth of the Corporate Debtor to take a contrary stand and principles in the nature of estoppel would come in play.

22. It is pertinent to mention that the resolution process is an attempt to rescue a fund starving body corporate from the financial challenging conditions and to restore it back to a sustainable financial ease. It may involve financial restructuring, any other arrangement by involving another fund infusing company or even by compromise with its creditors. The object of the 'Code' is to resolve the insolvency which could not be achieved unless the petition is admitted. The resolution as against liquidation would only be possible if the Corporate Insolvency Resolution Process is triggered and efforts in that direction are made. Even this petition could be withdrawn after admission if requirement of Section 12A of the Code are fulfilled. Even before constitution of CoC the CIR Process could be withdrawn by filing an application under Rule 11 of NCLT Rules, 2016. In that regard the parties have to fulfil the requirements of law as laid down by Hon'ble the Supreme Court in Swiss Ribbons



Pvt. Ltd. & Anr. v. Union of India & Ors. (Writ Petition (Civil) No. 99 of 2018 decided on 25.01.2019.

23. The objection raised by the Respondent that the initial agreement dated 29.05.2008 as executed between the parties, clearly provides for dispute resolution through Arbitration.

The presence of an arbitration clause in the loan agreement would not cause any impediment with regard to initiation of Corporate Insolvency Resolution Process because under Section 7 of the Code the presence of an arbitration agreement is no bar to the admission of the petition and initiation of Corporate Insolvency Resolution Process unlike the provisions of Section 8 & 9 of the Code. There is however no such provision in Section 7 of the Code. Accordingly, this argument completely lacks statutory content and therefore, is hereby rejected as unfounded.

24. In view of filing the certificate of Registration dated 15.05.2007 (Annexure A-1), as Non-Banking Finance Company (NBFC) issued by Reserve Bank of India in favour of SREI Infrastructure Finance Limited vide diary No. 1691 dated 27.03.2018 the argument advanced by learned counsel for the Respondent that the petitioner had no authority to work as NBFC



on the day of Agreement would also not require any further consideration.

25. The other objections raised on behalf of the Corporate Debtor also do not warrant any serious consideration. It is already observed that the object of the Corporate Insolvency Resolution Process is to rescue a fund starving body corporate from the financial stress as is discussed in para 22 of the order and it is not understood as to how the Corporate Insolvency Resolution Process could be deferred merely because it was agreed between the parties that in case of default on the part of the Respondent, the Petitioner would take over the possession of the property, which has been allotted as collateral security to the Petitioner and are of a very high value. It is not the property which is at the base of the Code, 2016. It is cash liquidity which is the basis for triggering the Corporate Insolvency Resolution Process. Such like factors have no bearing on the admission of the petition.

26. Learned Counsel for the petitioner has then argued that all requirements of Section 7 of the Code for initiation of Corporate Insolvency Resolution Process by a Financial Creditor stand



fulfilled and other conditions prescribed by Rule 4 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. It is further submitted that the details of default along with its dates have been clearly stated in part IV along with all the minute details. There is overwhelming evidence to prove default. The name of the resolution professional has also been specified.

27. We may now examine the provisions of Section 7 (2) and Section 7 (5) of IBC which read as under:-

“Initiation of corporate insolvency resolution process by financial creditor.

7 (1)

7 (2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

7 (3)

7 (4)



7 (5) Where the Adjudicating Authority is satisfied that—

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or

(b)

28. A conjoint reading of the aforesaid provision would show that form and manner of the application has to be the one as prescribed. It is evident from the record that the application has been filed on the proforma prescribed under Rule 4 (2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Section 7 of the Code. We are satisfied that a default amounting to lacs of rupees has occurred. As per requirement of Section 4 of the Code if default amount is one lac or more then the CIR Process would be issued. The application under sub section 2 of Section 7 is complete; and no



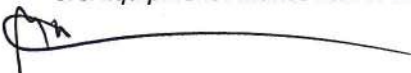
disciplinary proceedings are pending against the proposed Interim Resolution Professional.

29. As a sequel to the above discussion, this petition is admitted and Mr. Gopal Lal Baser is appointed as an Interim Resolution Professional.

30. In pursuance of Section 13 (2) of the Code, we direct that Interim Insolvency Resolution Professional to make public announcement immediately with regard to admission of this application under Section 7 of the Code. The expression 'immediately' means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

31. We also declare moratorium in terms of Section 14 of the Code. A necessary consequence of the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) and thus the following prohibitions are imposed which must be followed by all and sundry:

- “(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any



court of law, tribunal, arbitration panel or other authority;

- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.”

32. It is made clear that the provisions of moratorium shall not apply to (a) such transactions which might be notified by the Central Government in consultation with any financial regulator; (b) a surety in a contract of guarantor to a Corporate Debtor. Additionally, the supply of essential goods or services to the Corporate Debtor as may be specified is not to be terminated or suspended or interrupted during the moratorium period. These



would include supply of water, electricity and similar other services or supplies as provided by Regulation 32 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

33. The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, *interalia*, by Sections 15, 17, 18, 19, 20 & 21 of the Code. He must follow best practices and principles of fairness which are to apply at various stages of Corporate Insolvency Resolution Process. His conduct should be above board & independent; and he should work with utmost integrity and honesty. It is further made clear that all the personnel connected with the Corporate Debtor, erstwhile directors, promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else the Interim Resolution



Professional/Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional/Resolution Professional shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code.

34. Directions are also issued to the Ex-Management/Auditors etc. to provide all the documents in their possession and furnish every information in their knowledge as required under Section 19 of the Code to the Interim Resolution Professional within a period of one week from today otherwise coercive steps to follow.

35. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The amount



however be subject to adjustment by the Committee of Creditors. The amount must be accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

36. Before parting we must notice the complaint made against Financial Creditor in the form of discrepancies in the statement of account. We cannot in summary proceedings determine the amount due. This function is required to be performed by the Information Utility which is not yet fully functional. Therefore, Resolution Professional may ask the ex-promoter/director of the Corporate Debtor for any such correction if need be and act accordingly by placing it before the Financial Creditor as it is only fair to do so.

37. The judgment in this matter could not be pronounced earlier as the issue concerning Constitutional validity of explanation to sub section 8 (f) of Section 5 of the Code, 2016 was subject matter of challenge before Hon'ble the Supreme Court in a bunch of petitions. In the lead case titled as Pioneer Urban Land and Infrastructure Limited and Another v. Union of India & Ors. (Writ Petition (Civil) No. 43 of 2019) the order has now been pronounced on 09.08.2019. We have gone through the



order and find that the directions issued by Hon'ble the Supreme Court do not in any manner advance the case of the Corporate Debtor and the petition deserves to be admitted. It may also be noticed that at no stage possession has been offered and the denial of possession does not arise.

38. Mr. K. Datta, learned counsel for the petitioner in connected petition namely (IB)-1666(PB)/2018, has pointed out that stay order was passed by Hon'ble the Supreme Court namely Wianxx Impex Pvt. Ltd. in Writ Petition (civil) No. 438 of 2019 which has been dismissed *today* → 23.08.2019. The aforesaid submission would show that there is no impediment left in the pronouncement of order which was reserved in respect of the corporate debtor in CP No. (IB)-271(PB)/2017 and other connected matters namely (IB)-1401(PB)/2018, (IB)-1153(PB)/2018 and (IB)-695(PB)/2018. Accordingly, orders have been pronounced.

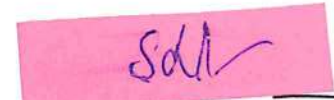
C.A. No. 302(PB)/2018

39. The prayer made in this application is to permit intervention in the pending proceeding on the ground that the applicants have huge claim in respect of the Corporate Debtor. As the petition has

been admitted the necessity of intervention by the applicants is obviated. Accordingly, all the applicants would be well within their rights to file their claims before the Interim Resolution Professional namely Mr. Gopal Lal Baser which shall be considered in accordance with law.

40. Application being C.A. No. 302(PB)/2018 stands disposed of.

41. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.



(M.M. KUMAR) 23.08.2019
PRESIDENT



(S.K. MOHAPATRA)
MEMBER(TECHNICAL)

23.08.2019
VINEET

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