THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
AT NEW DELHI

Company Application No. CA-918 (PB)/2019

In
IB-1038(PB)/2018

In the matter of:

M/s IL & FS Financial Services Limited

Applicant/Operational Creditor

Vs.

M/s Golden Glow Estates Private Limited

Respondent/Corporate Debtor

Judgment delivered on: 06.08.2019

CORAM

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

S. K. MOHAPATRA, MEMBER (TECHNICAL)

For Applicant/Petitioner:	Mr. Kirat, Mr. Pranav Vyas, Mr. Shashank Agarwal, Mr. Aayushi Singh, Ms. Rashneet Kaur, Advocates
For the Respondent	Ms. Srishti Kapoor, Advocate, with Ms. Kiran Sharma, CS Mr. A. S. Chadhha, Sr. Advocate with Mr. Vikram Babbar, Mr. Aditya Vashisth Advocate for R – 2.

ORDER

S. K. Mohapatra, Member

1. M/s IL & FS Financial Services Limited, one of the financial creditors of the corporate debtor M/s Golden Glow Estates Private Limited (*in CIRP*) has filed the present application with the prayer to declare the claim submitted by M/s Edelweiss Assets Reconstruction Company Limited (Respondent No.2) as null and void and consequently to direct the Resolution Professional (Respondent No.1) to revise the list of creditors of the corporate debtor.

2. There is no dispute that M/s Edelweiss Assets Reconstruction Company Limited (Respondent No.2) has filed claims in insolvency process of other principal borrowers amounting to Rs. 727,19,30,412/- which have been admitted in toto as setout below:

CIRP Case Number	Nature of Financial Debt	Amount claimed & Admitted (in Rupees)
IB–1083(PB)/18	**Debt – I** Loan of Rs. 170 crores availed by Adel Landmarks Limited	411,58,75,470

	("Adel") vide Loan Agreement dated October 07, 2013.	
IB–1040(PB)/18	**Debt – II** Loan of Rs. 110 crores availed by rational Buildcon Private Limited ("Rational Buildcon") vide Loan Agreement dated February 07, 2014.	198,59,16,882
	Debt – III Loan of Rs. 65 crores availed by Rational Buildcon vide Loan Agreement dated January 22, 2015.	117,01,38,060
Total amount claimed & admitted		**727,19,30,412**

3. It is thus seen that M/s Edelweiss Assets Reconstruction Company Limited (Respondent No.2) has preferred claim amounting to Rs. 727,19,30,412/- which has been admitted in its totality in other insolvency resolution matters as stated above.

4. The selfsame claim amounting to Rs. 727,19,30,412/- arising out of the aforesaid loan agreements has also been admitted in the present

CIRP in respect of Golden Glow Estates Private Limited in IB-1038 (PB)/18.

5. There is thus no dispute that M/s Edelweiss Assets Reconstruction Company Limited is pursuing with duplicate claims before different IRPs in different insolvency proceedings.

6. This bench in the case of M/s IFCI Vs. Hi-Point Investment Finance Private Limited vide order dated 07.06.2019 passed in IB-478/17 has already rejected such practice by holding that *no duplicate claim would be maintainable for the same set of claim and default.*

7. Resolution Professional also in his reply filed on 03.05.2019 has sought directions to declare the claims submitted by M/s Edelweiss Assets Reconstruction Company Limited as null and void.

8. It is also pertinent to refer to para 22 of the company application where it is stated that similar duplicate claims received from certain home-buyers have been denied by RP by intimating that their claim shall be considered in the CIRP of M/s Adel Landmarks Limited and not in the present CIRP.

9. Admittedly, the total claim of M/s Edelweiss Assets Reconstruction Company Limited (Respondent No.2) is only Rs. 727,19,30,412/- and nothing more. However, M/s Edelweiss Assets Reconstruction Company Limited has lodged the very same claim twice, which has also been admitted twice in different insolvency processes respectively. Not only there is duplication of selfsame claim but also M/s Edelweiss Assets Reconstruction Company Limited is enjoying double proportionate voting rights in different CoC. Besides the admitted amount in different insolvency processes has become double of the dues actually outstanding to M/s Edelweiss Assets Reconstruction Company Limited.

10. No doubt the liability of guarantor is co-extensive with that of the principal debtor, however the respondent couldn't place any precedent in support of their contention that when a claim has been admitted in one CIRP similar selfsame claim can also be admitted and pursued in other Insolvency Processes simultaneously.

11. Hon'ble NCLAT has settled the proposition of law in this respect in the case of *Dr. Vishnu Kumar Agarwal Vs M/s. Piramal Enterprises Ltd. Company Appeal (AT) (Insolvency) No. 346 of 2018* decided on 08.01.2019 with the following observations:

> *" Admittedly, for same set of debt, claim cannot be filed by same 'Financial Creditor' in two separate 'Corporate Insolvency Resolution Processes'."*

12. The finding of the Hon'ble NCLAT that for the same set of debt, claim cannot be filed by same 'Financial Creditor' in two separate 'Corporate Insolvency Resolution Processes' has not yet been varied, modified or set-aside nor has been stayed. Judicial discipline therefore demands that the precedent laid down by Hon'ble Appellate Court needs to be followed.

13. The view taken by the Hon'ble Appellate Tribunal is binding on us as per the principles of stare decisis and the precedents.

14. As a sequel to the above discussion the company application is allowed. The claim of Respondent no. 2 in the present CIRP is set aside being a repetition of the claim which already stands admitted in other insolvency processes as stated above. Consequently, the Resolution Professional is directed to amend the list of Financial Creditors and to reconstitute the CoC accordingly.

15. Let the copy of the order be communicated to the parties.

Sd/-

06.08.2018

(M.M. KUMAR)
PRESIDENT

Sd/-

(S. K. MOHAPATRA)
MEMBER (T)

Deepak Kumar