

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 2017 of 2024

IN THE MATTER OF:

Ronnie Baath

Suspended Board of Director of JCT Ltd.

...Appellant

Versus

Phoenix ARC Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr. Anand Chhibbar, Sr. Advocate with Mr. Abhishek Anand, Mr. Vaibhav Sahni, Mr. Karan Kohli, Ms. Palak Kalra, Advocates.

For Respondents : Mr. Suresh Dobhal, Advocate for R-1.

Mr. Rajesh Kumar Gautam, Advocate for Indian Bank (Intervener).

Mr. Ankur Mittal, Ms. Yashika Sharma, Mr. Srijan Jain, Advocates for SBI (Intervener).

Mr. Umang Mehta, Ms. Priya Thapa, Advocates for Employee Union (Intervener).

O R D E R
(Hybrid Mode)

06.12.2024: Heard learned counsel for the Appellant, learned counsel appearing for the Respondent-Financial Creditor, Shri Rajesh Kumar Gautam, appears for the Intervener – Indian Bank, Shri Mittal appears for Intervener- State Bank of India.

2. This appeal has been filed against order passed by the Adjudicating Authority dated 25.10.2024 admitting Section 7 application filed by Phoenix ARC Pvt. Ltd. – the Respondent herein. When the appeal was taken for consideration on 29.10.2024, learned counsel for the Appellant submitted that an OTS proposal was approved on 15.10.2024. Noticing the aforesaid, this tribunal passed following order on 29.10.2024:

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“O R D E R
(Hybrid Mode)

29.10.2024: *This Appeal has been filed against an Order dated 25.10.2024 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Chandigarh Bench, Chandigarh) in I.A. No. 1606/2024 and C.P. (IB) No. 325/Chd/Pb/2023, by which Order, Section 7 Application filed by the JCT Limited, Respondents herein has been admitted.*

2. Learned Counsel for the Appellant submits that before the Order was passed, an OTS Proposal was sent on 08.10.2024 for Rs. 108 Crores on which the Appellant received the communication dated 15.10.2024 that Financial Creditor has in principle agreed to consider the OTS Proposal subject to upfront deposit of an amount of Rs. 10.80 Crores. Appellant stated that amount of Rs. 10.80 Crores was deposited on 25.10.2024.

3. Learned Counsel appearing for the Financial Creditor does not dispute the said communication sent to the Appellant and deposit of Rs. 10.80 Crores.

4. Learned Counsel for the Financial Creditor however submits that Appeal be taken after four weeks to find out as to whether the Appellant continues to pay the monthly instalments as per schedule.

5. Learned Counsel for Financial Creditor also submits that Financial Creditor shall consider the OTS and communicate it.

6. It is submitted by the Appellant that no steps have yet been taken in pursuance of the Order dated 25.10.2024.

*List this Appeal on **06th December, 2024.***

In the meantime, no further steps shall be taken in pursuance of the Impugned Order dated 25.10.2024. This is without prejudice to the rights of both the Parties.”

3. Today, when the appeal was taken, learned counsel for the Financial Creditor submits that the Appellant has to make payment under OTS, which has already been sanctioned by 1st February, 2025. The Financial Creditor submits that the Financial Creditor shall file an application before the Adjudicating Authority under Section 12A r/w Regulation 30A of the CIRP Regulations, 2016 for withdrawal of the CIRP.

4. Shri Rajesh Kumar Gautam, learned counsel appearing for the Indian Bank and Shri Mittal, learned counsel appearing for State Bank of India submits that they are also creditors and they may be given liberty to object to Section 12A application, if any.

5. In view of the fact that the Adjudicating Authority has admitted Section 7 application on returning finding of debt and default and when there is no issue raised on debt and default, we find no error in the order of the Adjudicating Authority admitting Section 7 application. However, in view of the fact that OTS has been sanctioned and parties have sought to take steps to take route of Section 12A r/w Regulation 30A, we see no reason to keep this appeal pending. We grant liberty to the Financial Creditor to file application under Section 12A through IRP as per Regulation 30A, which may be considered by the Adjudicating Authority. The Interveners are also given

liberty to file their objections to the 12A Application, if any. With these observations, this Appeal is disposed of.

6. While disposing the appeal, we further direct that the further steps shall be taken by the IRP after orders are passed by the Adjudicating Authority on Section 12A Application. Learned counsel for the Appellant submits that he shall be filing application under 12A within two weeks.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/km