NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC) No. 41 of 2021
IN
C.P. (IB) No. 18/GB/2018

Coram:

Hon'ble Shri H. V. Subba Rao, Member (J): **Hearing through**
Hon'ble Shri Prasanta Kumar Mohanty, Member (T): **Video Conference**

ATTENDANCE-CUM- ORDER SHEET OF THE HEARING OF GUWAHATI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.09.2021

Name of the Company: CFM Assets Reconstruction Pvt. Ltd. & Others
V/s
State Bank of India & Others

Section of the Companies Act: Under Section 60(5) of IBC, 2016 read with Rule 11 of the NCLT Rules, 2016

SL.NO.	NAME (CAPITAL ETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	MR. PRANAY AGARWAL	Advocate	Petitioner	Present in
2.	MS. ANKITA BAID	Advocate	Petitioner	Video
3.	MR. S. CHANDA	Advocate	Indian Bank	Conference

O R D E R
Date of Order: 30.09.2021

The Parties are represented through their respective Counsel(s).

Today, the present matter is kept for pronouncement of order.

The present matter i.e. IA (IBC) No. 41 of 2021 in C.P. (IB) No. 18/GB/2019 is disposed of.

The detailed order is recorded vide separate sheet.

Sd/-

(**Prasanta Kumar Mohanty)**
Member (Technical)
& Adjudicating Authority

Sd/-

(H. V. Subba Rao)
Member (Judicial)
& Adjudicating Authority

/D- 30.09.2021/

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC) No.41 of 2021
IN
C.P. (IB) No.18/GB/2018

<u>In the matter of</u>:

CFM Assets Reconstruction Pvt. Ltd.	: Petitioner 1 / Resolution
Jumbo Roofings & Tiles	: Petitioner 2 / Applicants

Versus

State Bank of India
North Eastern Development Finance Corporation and
Indian Bank

<u>In the Matter of:</u>

Bank of India	: Financial Creditor
Versus	
RNB Cements Pvt. Ltd.	: Corporate Debtor

Order delivered on 30th September, 2021

Coram:
Hon'ble Shri H. V. Subba Rao, Member (J): **Hearing through**
And
Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference

<u>Appearance</u>:	For the Applicants-	Mr. Pranay Agarwal, Advocate
	For the Applicants-	Ms. Ankita Baid, Advocate
	For the Respondent- 1(SBI)	Mr. Debashish Choudhury, Advocate
	For the Respondent- 3 (Indian Bank)	Mr. S. Chanda

<u>O R D E R</u>
[Per: Mr. Prasanta Kumar Mohanty, Member (T)]

1. This IA is filed by CFM Assets Reconstructions Pvt. Ltd. and Jumbo Roofings and Tiles, the Applicants herein seeking the following reliefs:

(a) Issue necessary orders allowing / permitting a slight digression from the terms of the approved resolution plan, as on page 35 of the Plan, with respect to the release of security in favour of Applicant No.2 herein, instead of assignment of debt to Applicant No.1 herein, keeping in mind the Covid scenario and its economic viability.

(b) Issue necessary orders directing the Respondents herein to expedite the process of release of security in favour of Jumbo Roofings and Tiles, the Applicant No.2 herein, so that the implementation of the resolution plan may be completed at a faster pace for the benefit of the creditors.

For clarity, relevant portion of Page 35 of the approved Resolution Plan is reproduced herein below:

"A definitive agreement will be executed between the secured financial creditors and CFM Assets Reconstruction Pvt. Ltd. (RA1) on payment of Rs.27.00 crores as upfront payment to secured financial creditors. On balance payment of Rs.7 crores within the period of 18 months from receipt of certified copy of NCLT order, the secured financial creditors will assign all their rights, title and interest as specified in the financing documents and any underlying security interests, pledge, guarantees, mortgages, and / or third party security, including the collateral securities and corporate and personal guarantees provided to the secured financial creditors in respect of credit facilities granted to the CD to CFM Assets Reconstruction Pvt. Ltd. An assignment agreement will be duly executed between the secured financial creditors and CFM ARC (RA 1) immediately upon payment of balance amount of Rs.7.00 crores."

2. During the proceedings on 30.08.2021, the learned Counsel for the Respondent No.1 State Bank of India has confirmed that it has no objection to the request made by the Petitioners. Nobody was present for the Respondent No.2, North Eastern Development Finance Corporation and the Respondent No.3, Indian Bank. The learned Counsel appearing for the Petitioners has submitted that the other two Respondents are also agreeable to the proposal subject to payment of Rs.7.00 crores (Rupees Seven crores only). At this stage, the learned Counsel for the Petitioners has submitted they are ready to deposit Rs.7.00 crores (Rupees Seven crores only) in advance with the State Bank of India for releasing the security in favour of the Respondent No.2 instead of assignment of debt to Applicant No.1 keeping in mind the Covid scenario and its economic viability of the Plan. The relevant part of the said order is reproduced below:

"4. Heard all the Counsels. The Petitioners are permitted to deposit Rs.7.00 crores (Rupees Seven crores only) with the State Bank of India and the State Bank of India is directed not to utilize or distribute

the said amount of Rs.7.00 crores (Rupees Seven crores only) till the disposal of this Petition.

5. The Petitioners as well as the Respondents are directed to file an Affidavit within two weeks from today that they have no objections in permitting a slight digression from the terms of the approved resolution plan as prayed for by the Petitioners and release of the security in favour of the Petitioner No.2, within two weeks from today.

6. The Petitioners are directed to convey the next date of hearing to the Respondents not present today.

7. List the mater on 23.09.2021."

3. During the proceedings on 23.09.2021, the State Bank of India, Indian Bank and North Eastern Development Finance Corporation Ltd. and the Petitioners have filed their respective Affidavits dated 15.09.2021, 20.09.2021, 21.09.2021 and 16.09.2021 respectively conveying that they have no objections to the slight digression from the approved Resolution Plan to that extent. Affidavit has been filed by the Petitioner No.2 Jumbo Roofings & Tiles also praying for passing necessary directions / orders on the Respondents as prayed for in the Petition. It has also been stated in the Affidavits filed by the Petitioners that the Resolution Applicants have already deposited the said sum of Rs.7.00 crores on 09.09.2021 vide their cheque No.900238 dated 09.09.2021 in the account of State Bank of India. Therefore, it is humbly prayed that the Hon'ble Tribunal may pas necessary orders / directions allowing prayer (a) of the Applicants i.e. allowing / permitting slight digression from the approved Resolution Plan with respect to release of security in favour of the Applicant No.2 herein, instead of assignment of debt to the Applicant No.1 herein.

4. The State Bank of India has confirmed the receipt of Rs.7.00 crores but kept unutilized as per the Order of this Bench.

5. **Heard the learned Counsels appearing for all the parties, we are of the considered view that the prayer made by the Applicants herein be allowed.**

6. Hence, slight digression from the approved Resolution Plan with respect to release of Security in favour of the Applicant No.2 herein, instead of assignment of

debt to the Applicant No.1 herein as prayed for and agreed by the Applicant No.1 & all Respondents is hereby allowed.

7. The Respondent No. 1 State Bank of India is permitted to distribute / allocate the amount of Rs.7.00 crores (Rupees Seven Crores) only received from the RAs as per the Resolution Plan approved earlier and is hereby directed to file compliance report within Seven days from today.

8. The Applicants are also hereby directed to file a compliance report with regard to the position of the implementation of the Resolution Plan within three weeks from today.

9. **This IA (IBC) No.41 of 2021 stands disposed of with the above observations and directions.**

Sd/-
(**Prasanta Kumar Mohanty)**
Member (Technical)
& Adjudicating Authority

Sd/-
(H. V. Subba Rao)
Member (Judicial)
& Adjudicating Authority

/D-30.09.2021/