

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
COURT-I
KOLKATA**

IVN. P. (IB) No. 19/KB/2022

in

C.P. (IB) No. 369/KB/2020

An application under sections 30(2), 30(3), 31(14) and 60(5) of the Insolvency and Bankruptcy Code, 2016 read with regulations 38 and 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of:

DBS Bank Limited

...Financial Creditor

versus

Hindusthan National Glass & Industries Limited

... Corporate Debtor

and

In the matter of:

The U.P. Glass Manufacturers Syndicate

... Applicant

versus

1. Girish Sriram Juneja, Interim Resolution Professional of Hindustan National Glass & Industries Limited
2. Committee of Creditors of Hindustan National Glass & Industries Limited
3. Nirma Chemical Works Private Limited
4. AGI Greenpac Limited
5. Independent Sugar Corporation Limited

...Respondents

Coram:

Mr. Rohit Kapoor : **Member (Judicial)**

Mr. Balraj Joshi : **Member (Technical)**

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Appearances (via hybrid mode):

- For The U.P. Glass Manufacturers Syndicate : 1. Mr. Ratnanko Banerji, Sr. Adv
2. Mr. Joy Saha, Sr. Adv
3. Mr. Anuj Singh, Adv.
4. Mr. Pranit Bag, Adv
5. Mr. Pranit Bag, Adv
6. Mr. Shaunak Mitra, Adv
7. Mr. Tanish Ganeriwala, Adv.
8. Mr. D. Das, Adv.
9. Mr. S. Mukherjee, Adv
10. Mr. Swarbhanu Bhattacharya, Adv.
11. Mr. Aman Agarwal, Adv.
- For the Resolution Professional : 1. Mr. Abharajit Mitra, Senior Adv.
2. Mr. Jishnu Chowdhury, Adv.
3. Mr. Vikram Wadehra, Adv.
4. Mr. Soumava Ghosh, Adv
5. Mr. Mayukh Roy, Adv.
6. Ms. Swagata Roy, Adv.
- For the Respondent No. 2 : 1. Mr. Siddharth Mitra, Senior Adv.
2. Mr. Siddhartha Dutta, Adv.
3. Mr. Deepanjan Dutta Roy, Adv.
4. Ms. Sanjana Jha, Adv.
- For the Respondent No. 4 : 1. Mr. Rupak Ghosh, Adv
2. Mr. Sanjeev Sharma, Adv.
3. Mr. D. Basu Mallick, Adv.
4. Ms. Sanya Sud, Adv.
5. Mr. Rahul Singh, Adv.
6. Ms. T. Lawrence, Adv.

Date of pronouncement: 16 January 2023

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ORDER

Per: Balraj Joshi, Member (Technical)

1. Preamble

1.1. The Court convened through hybrid mode.

1.2. The Inv. Petition has been filed by the U.P. Glass Manufacturers Syndicate praying for the following:

- a. *Leave be granted to the Applicant to intervene in the matter;*
- b. *Order be passed to replace the Respondent no. 1 as Resolution Professional;*
- c. *Order be passed to declare the entire process as regards invitation, receipt, consideration, voting and approval of the Resolution Plans of the respondent nos. 3, 4 and 5 and all steps and actions in connection therewith and in relation thereto as vitiated, illegal, null and void;*
- d. *Order be passed to nullify the votes and the entire process conducted by the Respondent Nos. 1 and 2 in connection with the purported approval of the Resolution Plan of respondent no. 4;*
- e. *Order of injunction be passed to stay the process of further approval or implementation of or giving effect to the Resolution Plan of the Respondent No. 4 by the COC and to restrain the COC from taking a decision to implement or give effect to the said Resolution Plan and any other decision in furtherance thereof.*

1.3. *Vide order dated 21 October 2021, this Adjudicating Authority admitted Hindusthan National Glass & Industries Limited (“Corporate Debtor”) into Corporate Insolvency Resolution Process (“CIRP”).*

2. Submissions of the learned Senior Counsel appearing on behalf of the Applicant

2.1. The Applicant is a Non-Government Company incorporated on 20 February 1951 and is an Industry association representing the interest of Small-Scale and Medium-Scale Players in the glass industry based out

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of Uttar Pradesh. The members of the Applicant are Small and Medium Enterprises.

- 2.2. The learned Senior Counsel first led us through the proviso to section 31(4) of the Code and the Statement of Objects and Reasons for the Second Amendment Bill, 2018 by which the sub-section (4) to section 31 and the proviso was introduced.
- 2.3. It is submitted that the Legislature was very clear that the proviso meant and was always intended to be a mandatory provision for approval of Competition Commission of India (“CCI”) to be obtained before the Plan was approved by Committee of Creditors (“CoC”). The word "shall" is used and not "may". The plain language of such provision is incapable of any alternate interpretation or meaning. The legislature has categorically provided that in case of a resolution plan for which CCI approval is required, such approval from CCI has to be mandatorily obtained before approval of the plan by the CoC.
- 2.4. The legislature has not provided that the C.C.I. approval can be obtained after CoC voting and before final approval by the adjudicating authority.
- 2.5. It is settled law that when the words of a statute are unambiguous, they have to be strictly construed regardless of the outcome. Reliance has been placed on *Union of India v. Pfizer Limited, (2018) 2 SCC 39* at paras 25, 26 wherein Hon'ble Supreme Court has held that - "*However, when the provision is cast in a definite and unambiguous language and its intention is clear, it is not permissible either to mend or bend it even if such recasting is in accord with good reason and conscience*".
- 2.6. It is also well settled that when a statute mandates something to be done in a particular manner, it is to be done only in that manner and not otherwise. The learned Senior Counsel placed reliance on *Opto Circuit v. Axis Bank, (2021) 6 SCC 707* at para 14.
- 2.7. In the instant case, even though the Resolution Plan of AGI Greenpac has not been approved by CCI and the notice filed by AGI Greenpac has been declared as "Invalid", the Resolution Plan has purportedly been

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approved by the CoC in the teeth of the proviso under section 31(4). In fact, an application has also been filed by the Resolution Professional seeking approval of the Resolution Plan under section 31 and such action is highly illegal because it is an admitted fact that till date no approval has been obtained from the CCI. The Resolution Professional had no authority to file such application. Thus, on such ground alone the application for approval of the Resolution Plan is liable to be dismissed.

2.8. Further that the Resolution Plan submitted by AGI Greenpac contravenes the laws and regulations including the Competition Act, 2002. The Resolution Professional has filed an application for approval of Resolution Plan, by making incorrect statement that the plan of AGI Greenpac does not contravene any of the provision of the laws for the time being in force, which is in violation of Section 30(2)(e). Thus, on such ground the application for approval of Resolution Plan is liable to be dismissed.

2.9. The approval from CCI required under the proviso to section 31(4) has to be obtained "prior to" CoC approval and not later. This is made amply clear by the most recent decision dated 05 January 2022 of the Hon'ble NCLAT on this issue reported in ***Bank of Maharashtra v. Videocon Industries***¹ at paras 53, 55, 56.

2.10. The said decision was taken into cognizance by this Adjudicating Authority while passing the order dated 21 September 2022, in IVN. P. 16 of 2022 filed by the Applicant.

2.11. Notably, even while passing the earlier order dated 21 September 2022, this Adjudicating Authority has expressly relied on the Videocon judgement. Also, while passing the order dated 21 September 2022, this Adjudicating Authority has been pleased to observe in paragraph 6.4 by relying on the judgment of Videocon *supra*. and regulation 39 of the

¹ 2022 SCC OnLine NCLAT 6

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CIRP Regulations that before approval of the Resolution Plan, all the compliances have to be met by the Resolution Applicants.

2.12. The Resolution Professional and CoC both being creatures of statute cannot act in derogation of the provisions of the statute or they cannot bypass such mandatory provisions of law, as they have done in the instant case. There is no justification for the undue haste with which AGI Greenpac's Resolution Plan has been approved without requisite prior approval or CCI therefore being obtained as per the proviso to section 31(4) of the Code.

2.13. In other words, the logic behind the proviso to section 31(4) of the Code is to avoid a non-compliant Resolution Plan being submitted to the Adjudicating Authority for approval and to avoid the exact circumstances in the case.

3. Submissions of the learned Senior Counsel appearing on behalf of the Resolution Professional

3.1. The learned Senior Counsel submitted that the Applicant has alleged that the approved Resolution Plan by the CoC is not in conformity with the requirements of section 31 (4) of the Code read with its proviso which provides that approval from CCI must be obtained, in case a Resolution Plan contains a provision for combination, prior to its approval by the Committee of Creditors

3.2. In pursuance of the CIRP of the Corporate Debtor, the Resolution Professional was in receipt of three Resolution Plans being those of Respondent No. 3, Respondent No. 4 and Respondent No. 5 herein. Upon receipt of a communication from the Applicant with respect to applicability of Competition Act, the Respondent No. 1 *vide* a letter dated 07 September 2022 had informed the Applicant that the CIRP of the Corporate Debtor was being conducted in accordance with all applicable provisions of law.

3.3. The Resolution Plans, as received by the Respondent No. 1, have been considered and subsequently voted upon by the

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CoC. Consequent thereto, the Resolution Professional, in adherence to the Code has filed an application under section 30(6) read with section 31(1) for approval of the Resolution Plan having received the majority votes with the Adjudicating Authority.

- 3.4. It is reiterated that the Applicant herein is not only a third party who has no locus to intervene but also the application is pre-mature since at this stage the application for approval of a Resolution Plan is pending consideration of the Adjudicating Authority.
- 3.5. The present application is liable to be dismissed in as much as since no cause has arisen as yet that requires the Adjudicating Authority to look into the irregularities.
- 3.6. The applicability of the proviso to section 31(4) of the Code which deals with approval from the CCI, at the stage of approval of the Resolution Plan from the CoC was considered by a three-judge bench of the Hon'ble NCLAT in the matter of *Arcelormittal India Pvt. Ltd. v. Abhijit Guhathakurta in Company Appeal (AT) (Insolvency) No. 524 of 2019* wherein *vide* judgment dated 16 December 2019, it has been held at paragraph 15 that the provision is directory and not mandatory. It was further observed that it is always open to the Committee of Creditors, which looks into viability, feasibility and commercial aspect of 'Resolution Plan to approve the 'Resolution Plan' subject to such approval by the CCI which may be obtained prior to the approval of plan by the Adjudicating Authority under section 31 of the Code.
- 3.7. The said proposition was further upheld by the Hon'ble NCLAT in *Makalu Trading Ltd. and Ors. vs. Rajiv Chakraborty and Ors. in Company Appeal (AT) (Insolvency) No. 533 of 2020* (paragraph 11). Therefore, it is submitted that the issue is no longer *res integra* and has been settled by two judgments, each of a three-judge bench of the Hon'ble NCLAT.

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- 3.8. As a matter of fact, this Adjudicating Authority is conscious of the jurisprudence, has considered the judgments passed by the Hon'ble NCLAT and has accordingly passed its order dated 21 September 2022 in the instant proceedings filed on behalf of the same Applicant.
- 3.9. The Applicant, in course of his submissions, has relied upon the judgment of ***Bank of Maharashtra v. Videocon Industries Ltd. (2022 SCC OnLine NCLAT 6)***, a subsequent two-judge bench judgment and has incorrectly argued that CCI approval has to be obtained in accordance with the provisions of section 31(4) of the Code i.e. prior to approval of the Resolution Plan by the CoC.
- 3.10. It is stated that as per the law of precedents, a bench comprising of lesser members is bound to follow the law laid down by a larger bench. The precedent laid down in the decision of ***Arcelormittal India supra.*** and subsequently followed in ***Makalu Trading supra.*** are three-judge bench decisions and hence are authoritative precedents and binding over the decision passed by a Division Bench of the Hon'ble NCLAT in ***Videocon Industries supra.***
- 3.11. The Hon'ble High Court of Kerela in ***Narayan Krishnan v. Union of India, Secretary Ministry of Home Affairs & Anr. [(2021) scC Online Ker 12116]***, at paragraph 19, while relying on another judgment of the Madras High Court has stated as follows:

"In such a contingency, sitting as we do, as judges over division bench of this court, we are bound by the interpretation and preference given by the full bench of this court. This will be in consonance with the decorum of our judicial functioning. It is well settled that an interpretation (and equally misinterpretation) by a larger bench of the High Court, of a decision or decisions of the Supreme Court is binding on a smaller bench of the same court, and the latter cannot refuse to follow the decision of larger bench....."

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- 3.12. The learned Senior Counsel also relied on *Vasanthi Shridhar Bangera & Ors. v. Vishala Bokapatna Laxman [2019 SCC OnLine Bom 2395]*.
4. **Submissions of the learned Senior Counsel appearing on behalf of the CoC**
- 4.1. The learned Senior Counsel submitted that the present Application has been filed in public interest and as representative of the Small-Scale and Medium-Scale Glass Manufacturers, the Applicant is neither a Financial Creditor nor an Operational Creditor and is not related to the Corporate Debtor hence it has no right to object to the method and manner in which the Resolution Plans are being considered by the Committee of Creditors.
- 4.2. The Applicant is neither a Financial Creditor nor an Operational Creditor, it is an association, which being a third party to the CIRP does not have any right to object to the method and manner of consideration of the Resolution Plan by the CoC as prayed for at prayers c., d. and e.
- 4.3. The question of locus of the Applicant was considered by this Adjudicating Authority *vide* its order dated 21 September 2022 in INV. (P). No. 16/KB/2022 wherein this Adjudicating Authority observed that
“It is also important to decide whether the Applicant has locus standi to present the present Intervention Petition or not, as the Applicant is not a creditor or a related party of the Corporate Debtor. Hence, at this stage it is an outsider to the CIRP of the Corporate Debtor and we find that he has no locus to have filed the present I.A.”
- 4.4. The Applicant continues to be a third party to the CIRP of the Corporate Debtor and its interest has not changed.
- 4.5. The learned Senior Counsel submitted that section 31(4) of the Code requires a Resolution Applicant to obtain approval of the CCI prior to the approval of Resolution Plan by the CoC. However, the Hon'ble NCLAT in the matter of *Arcelormittal India Private Limited v. Abhijit*

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*Guhathakurta*² observed that the proviso to subsection (4) of section 31 of the Code which related to obtaining the approval from CC prior to approval of Resolution Plan by the CoC is directory and not mandatory. It is open to the CoC to approve the Resolution Plan subject to such approval of the CCI which may be obtained prior to the approval of the plan by the Adjudicating Authority.

4.6. The CoC has voted on the Resolution Plans and the Resolution Professional has declared the successful Resolution Applicant subject to the necessary regulatory and statutory approvals.

5. Submissions of the learned Counsel appearing on behalf of the Respondent No. 4

5.1. The Applicant in the present case i.e. U.P. Glass Manufacturers Syndicate, has no locus standi to object to the CIRP of the Corporate Debtor. The Petitioner has no direct or indirect role in the CIRP whatsoever, and in fact, this Adjudicating Authority has dismissed the earlier intervention application of the Applicant, on the said ground of locus standi.

5.2. This Adjudicating Authority has thus already reached a conclusion that the Petitioner has no locus *vide* order dated 21 September 2022, which was not appealed by the Petitioner. As such, the said order continues to bind the Applicant, and no facts have been put forth which justify any change in circumstances enabling the Applicant to now approach this Adjudicating Authority. As such, not only is this present Inv. Petition is not maintainable, but also, on facts, the Applicant continues to be an outsider to the CIRP and have no locus whatsoever. Thus, at the outset itself, the Inv. Petition deserves to be dismissed.

5.3. In this regard the learned Counsel for the Resolution Applicant relied on the decision reported in *Prahlad Singh v. Col. Sukhdev Singh, 1987 (1) SCC 727*, wherein the Hon'ble Supreme Court has held that finding

² (2019) SCC OnLine NCLAT 920

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recorded by a Court even in an interlocutory proceeding will be binding at a later stage even in the same proceedings in the absence of any appeal preferred from such finding and principles of res judicata under section 11 of the Code of Civil Procedure would apply.

- 5.4. While section 31(4) of the Code states that the approval of the CCI must be obtained prior to the CoC approval, this condition has been considerably relaxed by judicial precedents. The Hon'ble NCLAT in *Arcelormittal India Pvt. Ltd. v. Abhijit Guhathakurta, Company Appeal (AT) (Insolvency) No. 524 of 2019* clearly held that proviso to sub-section (4) of Section 31 is directory and not mandatory. Thus, pursuant to the decision in *Arcelormittal supra.*, it is no longer incumbent on Resolution Applicants to get CCI approval prior to CoC approval.
- 5.5. The judgment in *Arcelormittal supra.* continues to be valid and operative till date. In fact, the Hon'ble NCLAT recently in *Vishal Vijay Kalantri v. Shailen Shah, Company Appeal (AT) (Insolvency) No. 466 of 2020* affirmed that *Arcelormittal supra.* "holds the field as the same has not been reversed or set aside in appeal or other proceeding"
- 5.6. Furthermore, *Arcelormittal supra.* states that "it is always open to the CoC to approve the Resolution Plan subject to the approval by the CCI, which may be obtained prior to the approval of the plan by the Adjudicating Authority"
- 5.7. It is also pertinent to note the judgment in *Makalu Trading Ltd. v. Rajiv Chakraborty, Company Appeal (AT) (Insolvency) No. 533 of 2020 (paragraph 12)*, wherein the Hon'ble NCLAT condoned the fact the CCI had not granted approval prior to the CoC's approval, stating that in any case, CCI's approval came before the Adjudicatory Authority approved the plan.
- 5.8. To sum up the above discussion, there is nothing in insolvency law which provides an outer limit or maximum time frame for when the CCI approval needs to be received by the Resolution Applicant. Ever since

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the judgment in *Arcelor* found that proviso to Section 31(4) was directory, there is no statutory provision or judgment to suggest that the CCI approval necessarily must come by any specific time frame, much less specifying that CCI approval needs to come before the CoC's approval. In this regard, it is to be noted that the Resolution Applicant has already filed its application in Form II with the CCI.

5.9. In the course of the hearing in the present matter, the Applicant had sought to place reliance on a judgment of the Hon'ble NCLAT, *Bank of Maharashtra v. Videocon Industries Ltd.*, dated 05 January 2021. In the said judgment, in paragraph 49, it has been stated that prior approval of the CCI as per proviso to section 31(4) ought to have been taken, failing which, the Resolution Plan requires review and reconsideration. It is contended that the said judgment is per incuriam, the said judgment did not refer to or even acknowledge the pre-existing law on the issue i.e., the judgment in *Arcelormittal supra.*, and thus, is per incuriam. As such, this Adjudicating Authority is not bound by the judgment of *Videocon Industries supra.*

5.10. The learned Counsel submitted that without prejudice to the above arguments, it may be pointed out that the Resolution Applicant has already filed for CCI's approval *vide* Form II Notification as required under Section 6(2) of the Competition Act, 2002 on 03 November 2022 and a copy of the acknowledgement by the CCI is annexed herewith and marked as Annexure-1. The said application is pending before the CCI as on date.

6. Rejoinder to the reply of the Respondents

6.1. The decisions cited by the respondents are not at all applicable in the facts of the case. In *Makalu Trading Limited v. Rajiv Chakraborty*³, the CCI approval had been obtained on 04 June 2019 whereas the Resolution Plan was approved by the Adjudicating Authority on 30

³ (2020) SCC OnLine NCLAT 643

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April, 2020 and in paragraph 12 of the said decision, it has been categorically held by Hon'ble NCLAT that : "*it seems that the purpose of the IBC is to ensure that wherever a "Combination" as referred in Section 5 of the Competition Act, 2002 the requirement is the concerned Resolution Applicant shall obtain the approval of CCI prior to the approval of such Resolution plan by the Coc.*"

- 6.2. The decision of the Hon'ble NCLAT in *Arcelormittal India Private Limited v. Abhijit Guhathakurta*⁴ is also not applicable to the present case because in this case, though the application has been filed for approval of Resolution Plan, till date no CCI approval is granted rendering the application ex-facie illegal and liable to be dismissed. Furthermore, in paragraph 15 of the said case, the Hon'ble NCLAT has only held that the resolution plan without CCI approval may be approved subject to CCI approval meaning thereby that a final decision can be taken by CoC only after the CCI approval.
- 6.3. Furthermore, in *ArcelorMittal supra.*, approval had been taken from CCI whereas in the present case no CCI approval is granted despite which the application has been filed for approval of plan under section 31 of the Code.
- 6.4. Furthermore, in both the cases of *Makalu Trading supra.* and *ArcelorMittal supra.*, there was no existing complaint and objection against any Resolution Applicant, like, in the present case, strong objection has been made by the Applicant against the Resolution Plan and notice filed by AGI Greenpac for CCI approval and such objection was pending consideration and adjudication by CCI. In addition thereto, the Resolution Applicants were constrained to apply for CCI approval after the order dated 21 September 2022, which is obvious as per instruction and requirement of RFRP.

⁴ (2019) SCC OnLine NCLAT 920

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- 6.5. Despite the fact that no approval was granted by the CCI, all the Resolution Plans were put to voting by the CoC, including the plans of the respondent no. 3 who did not even apply for CCI approval. Further, the notice filed by AGI Greenpac for grant of approval has been declared as "Invalid".
- 6.6. In any event, the judgment passed in *Videocon supra.* passed by the Hon'ble NCLAT on this issue holds the field and it is, thus, mandatory for CCI approval to be obtained before CoC approves any Resolution Plan.
- 6.7. Disregarding the plain language of the proviso to section 31(4) of the Code will be doing violence to the said provision. Thus, the Resolution Professional ought not to have even placed AGI Greenpac's Plan before the CoC for voting, without obtaining the CCI approval.
- 6.8. Further, the Applicant has come across the minutes of 17th CoC meeting held on 28 October, 2022 being circulated on social media (Twitter) wherefrom it appears that the RP and CoC have failed and neglected to record its deliberation on the purported plan of AGI Greenpac.
- 6.9. As to the Applicant's locus, this Adjudicating Authority had made observations in the order dated 21 September 2022 holding that the applicant was not affected "merely" by submission of the plans. However, by virtue of the subsequent wrongful and illegal approval and voting of the plans by the CoC, the Applicant is materially aggrieved thereby and has locus stand to maintain the present application. The Applicant is also entitled to move this application in view of sections 19 and 53B of the Competition Act, 2002.
- 6.10. Section 19(1) read with 53B of the Competition Act entitles "any person" to provide information regarding contravention of provisions of the Competition Act. The proceedings under the Competition Act are proceedings in rem which affect public interest as held in *Samir Agrawal v. CCI (2021) 3 SCC 136* at para 15 to 18, 21 and 23 and it is also settled law that proceedings before this Adjudicating

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Authority post initiation of CIRP under the Code are proceedings "in rem" as held in *Swiss Ribbons v. UOI (2019)4 SCC 17* at para 82. The interests of the Applicant and its constituent members who are MSME Glass manufacturers, whose interests are materially affected (reference to Preamble of the Competition Act, 2002). Thus, the Applicant has locus to move the present application and it deserves to be allowed.

Analysis and Findings

7. We have heard the learned Senior Counsel appearing on behalf of the Applicant and the Respondent and perused the records.
8. In the first instance, it is noted that in the judgment of *Videocon supra.* was passed by a Bench consisting of two Hon'ble Members of the Hon'ble NCLAT on 05 January 2022, whereas the judgment of *Arcelormittal supra.* has been passed by a Bench comprising of three Hon'ble Members on 16 December 2019. The Hon'ble NCLAT in *Arcelormittal supra.* held that

“We have noticed and hold that proviso to sub-section (4) of Section 31 of the ‘I&B Code’ which relates to obtaining the approval from the ‘Competition Commission of India’ under the Competition Act, 2002 prior to the approval of such ‘Resolution Plan’ by the ‘Committee of Creditors’, is directory and not mandatory. It is always open to the ‘Committee of Creditors’, which looks into viability, feasibility and commercial aspect of a ‘Resolution Plan’ to approve the ‘Resolution Plan’ subject to such approval by Commission, which may be obtained prior to approval of the plan by the Adjudicating Authority under Section 31 of the ‘I&B Code’.”
9. In view of the law laid down by a larger Bench which is referred and reproduced in the preceding paragraph, plea of the Applicant is not tenable.
10. At this stage, a Resolution Plan has been approved by the CoC and an application for approval of Resolution Plan has been filed before this

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Adjudicating Authority which is pending consideration and in view of the judgment passed in *Arcelormittal supra*. the aspect of approval by the CCI can always be looked into while considering the Resolution Plan by this Adjudicating Authority.

11. With respect to the locus of the Applicant, we have expressed our view in the order dated 21 September 2022 at paragraph 6.6. which is reproduced below:

“It is also important to decide whether the Applicant has locus standi to present the present Intervention Petition or not, as the Applicant is not a creditor or a related party of the Corporate Debtor. Hence, at this stage it is an outsider to the CIRP of the Corporate Debtor and we find that he has no locus to have filed the present I.A.”

12. **Inv. P. (IB) 19/KB/2022** is, therefore, rejected with the above observations.
13. List the main Company Petition on **14 February 2023**.
14. The Registry shall e-mail copy of this order to the Counsel on record for the Applicant and for the Respondents, and the Resolution Professional, for information and for taking necessary steps.
15. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order pronounced on the 16th day of January 2023.

GGRB[LRA]