

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 307/2023

[Arising out of the Impugned Order dated 14.02.2023 passed by the Adjudicating Authority, National Company Law Tribunal, New Delhi, Delhi in CP (IB) No.2768(ND)/2019.]

In the matter of:

Vaibhav Aggarwal

S/o Sh. Ashok Kumar Aggarwal
AG-32, Third Floor, Shalimar Bagh,
New Delhi-110088

.....Appellant

Versus

1. Mr. Sunil Sachdeva

Son of late Shri Ram Prakash Sachdeva
R/o 11-B/12, Pusa Road,
New Delhi-110005.

...Respondent No.1

2. Haldiram Fincap Pvt. Ltd.

through Insolvency Resolution Professional
Mr. Prabhakar Kumar
Registration No. IBBI/IPA-002/IP-N00774/2018-2019/12373,
Email ID prabhakar_acs@rediffmail.com,
Mobile No. 9810011532
Having its Registered Office at
AG-32, Shalimar Bagh
New Delhi- 110088.

...Respondent No.2

Present :

For Appellant : Mr. Virag Gupta, Mr. Ashok Kumar Jain, Mr. Vishal Arun Mishra, Mr. Umang Mangal, Advocates.

For Respondents :Mr. Rajesh Ranjan and Mr. Archit Chauhan, Advocates for R1
Mr. Ishwar Mohapatra, Advocate for R-2.

J U D G M E N T**(Hybrid Mode)****[Per: Barun Mitra, Member (Technical)]**

The present appeal filed under Section 61 of Insolvency and Bankruptcy Code 2016 (**'IBC'** in short) by the Appellant arises out of the Order dated 14.02.2023 (hereinafter referred to as **'Impugned Order'**) passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi, Court-III) in CP No. (IB)-2768(ND)/2019. By the impugned order, the Adjudicating Authority admitted the Section 9 application under IBC filed by the Mr. Sunil Sachdeva - Operational Creditor and initiated Corporate Insolvency Resolution Process (**'CIRP'** in short) against the Haldiram Fincap Pvt Ltd. - Corporate Debtor with immediate effect. Aggrieved by this impugned order, the present appeal has been preferred by the Authorised Representative of the Corporate Debtor.

2. Coming to the factual matrix of the present matter, the following salient sequence of events which require to be noticed for due consideration are as hereunder:

- A Lease Agreement was entered between the Lessors-Late Shri Ram Prakash Sachdeva and Late Smt. Chand Sachdeva on 28.08.2016 with the Lessee/Corporate Debtor - Haldiram Fincap Pvt Ltd. (**'HFPL'** in short) in respect of leased property at Paharganj, New Delhi.
- On the death of Late Shri Ram Prakash Sachdeva and Late Smt. Chand Sachdeva, their son, Mr. Sunil Sachdeva – Respondent No. 1 claimed the status of legal heir of the original lessors.

- The Lease term was a period of 12 years from 28.08.2016 to 27.08.2028. The Lease Agreement was purportedly assigned by HFPL to Haldiram Bhujawala Inc (**'HBI'** in short) on 16.12.2016.
- On the grounds of non-receipt of rent and GST, the Respondent No. 1 served a notice on the HFPL - Corporate Debtor on 05.02.2019 for an amount of Rs. 52.64 lakhs which was followed up by a notice of termination of lease on 28.04.2019 claiming a default amount of Rs. 85.44 lakhs. However, no payments were received from the Corporate Debtor.
- Subsequently a Demand Notice under Section 8 of IBC was issued on 17.09.2019 by the Respondent No. 1 on the HFPL - Corporate Debtor claiming an amount of Rs. 94.66 lakhs. It has been alleged that no Notice of Dispute was received from the Appellant from the Corporate Debtor.
- Section 9 application was filed by Respondent No. 1 before the Adjudicating Authority on 23.10.2019.
- HFPL – Corporate Debtor filed their reply to the Section 9 application on 07.02.2020. A Civil Suit was also filed by them against the Operational Creditor in February, 2020.
- The Adjudicating Authority on 14.02.2023 allowed the Section 9 application filed by the Respondent No. 1 - Operational Creditor and admitted the Corporate Debtor into the rigours of CIRP.
- Aggrieved by the impugned order, the present appeal has been preferred by the Authorised Representative of the Corporate Debtor.

3. The Learned Counsel for the Appellant while making his submissions stated that after execution of the original lease deed between the parents of Respondent No.1 as lessor and HFPL as lessee with regard to the leased premises, the said lease was assigned by HFPL - Respondent No. 2 to HBI. It was submitted that in spite of the assignment of lease to HBI, Respondent No. 1 did not make HBI a party in the matter before the Adjudicating Authority which has been wrongly disregarded by the Adjudicating Authority.

4. It is also submitted that since the lease had been assigned to HBI after obtaining NOC from Respondent No. 1, Respondent No. 2 was no longer running any business from the leased premises and thus there was no liability on their part to pay any rent or charges leviable on the leased premises. In such circumstances, the passing of the impugned order by the Adjudicating Authority admitting HFPL into CIRP was a violation of the principles of natural justice.

5. Submission was also made that Respondent No.1 has failed to provide legal documentation to prove his ownership of the leased premises as legal heir of his deceased parents. Questioning the authority of Respondent No.1 to collect rent from the Corporate Debtor-HTPL, it was contended that this was an issue of long-standing dispute between the parties since the demise of the original lessors. Hence, it was contended that Respondent No.1 cannot claim to be treated as an Operational Creditor.

6. Moreover, it was submitted that HBI had sent an email on 18.01.2018 to Respondent No.1 stating non-usability of the leased premises for commercial purposes due to omissions on the part of Respondent No.1. The Respondent No. 1 had failed to provide necessary details of payment of

conversion charges to Municipal Corporation of Delhi (MCD) which was needed to get health license for commercial usage of the property in terms of Para 9.1 of the Lease Deed. As the Respondent No. 1 had failed to provide the documents needed to get the health licence, HBI was unable to commence its business operations from the leased premises. A legal notice was also sent on 22.10.2019 by the HFPL to the Respondent No.1 intimating that due to failure to make payment of commercial conversion charges and other property/municipal taxes, they have not been able to do business in the leased premises. Since HBI had to suffer huge financial losses on this count and had to close their operations from the property, they had also filed a Commercial Civil Suit No.2519/22 before the District and Sessions Judge, Tis Hazari Courts, Delhi for recovery of Rs.1.50 cr towards loss along with interest which according to the Learned Counsel for the Appellant clearly substantiates the existence of pre-existing disputes between the parties.

7. Further assertion was made that Respondent No. 1 had taken forceful possession of the property in January, 2019 from the Corporate Debtor and filed a case before the Tis Hazari Court. This factum is clearly borne out from the email dated 31.07.2019 from the Respondent No. 1 to HBI informing them about hearing in the Tis Hazari Court which took place on 19.07.2019. That the institution of this matter before the Tis Hazari pre-dated the Section 8 Demand Notice of 17.09.2019 signifies pre-existing dispute. Moreover, as Respondent No. 1 had taken forceful possession of the property in January, 2019, the Corporate Debtor was not liable to pay any lease rent for any period thereafter. Moreover, the Appellant had sent a notice on 28.04.2019 for termination of lease deed with effect from 31.05.2019. It has been contended

that in terms of the judgment of the Hon'ble Supreme Court in ***Mobilox Innovations Private Limited v. Kirusa Software Private Limited, Civil Appeal No. 9405 of 2017 dated 21.09.2017*** ('***Mobilox***' in short), if a legal dispute exists, the Adjudicating Authority has to reject the application. The Adjudicating Authority thus acted in breach of the ***Mobilox supra*** judgement.

8. Countering the submissions made by the Appellant, the Learned Counsel for the Respondent No. 1 emphasised that in terms of the judgement of this Tribunal in ***Jaipur Trade Expo Centre Pvt Ltd Vs M/s Metro Jet Airways Training Pvt Ltd in CA (AT) (Ins) No.423 of 2021***, payment of license fee for use of leased premises for business purposes is an operational debt within the meaning of Section 5(21) of IBC. It was further contended by the Respondent No. 1 that he had inherited the role of lessor based on registered wills dated 09.10.2013 and 24.08.2016.

9. It was also contended that the Appellant made wrong claims regarding forcible possession of the leased premises by the Respondent No.1. No police complaint or email communication has been placed on record by the Corporate Debtor regarding illegal and forcible possession by the Respondent No.1 and ouster of Corporate Debtor from the said premises. It has been contended that such frivolous allegations have been made simply to evade their obligation to pay the operational debt owed to Respondent No.1. Clarifying their taking possession of the leased property, the Operational Creditor submitted that they took back possession of the leased premises only after the directions of this Tribunal dated 16.03.2023.

10. Coming to the issue of pre-existing disputes in the context of non-payment of conversion charges, it was submitted that the lease deed clearly

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outlined the responsibility for payment of conversion charges for commercial activity on Respondent No.2, which action was not taken by Respondent No.2. It was contended that Respondent No.1 cannot be blamed for the lapse on the part of the Corporate Debtor of not paying the conversion charges. It was stoutly contended that non-payment of conversion charges cannot be deemed to be a ground for pre-existing disputes. It was also added that the legal notice dated 22.10.2019 which had been sent by the Corporate Debtor cannot qualify as evidence of pre-existing disputes since the notice was served after filing of the Section 9 application and hence an after-thought. In any case, the Respondent No.1 had responded to the said legal notice on 28.11.2019. Even the Commercial Suit filed by Respondent No.2 in February, 2020 was so filed after the Section 8 Demand Notice and after filing of section 9 application and hence cannot qualify as a pre-existing dispute.

11. We have duly considered the detailed arguments and submissions advanced by the Learned Counsel for both the parties and perused the records carefully.

12. The short point for our consideration is whether payment of rent to the Operational Creditor/Respondent No. 1 as per lease deed is triggered in the present case giving rise to an operational debt, and if so, whether a default has been committed by the Corporate Debtor in respect of payment of such operational debt having already become due and payable and whether the said operational debt exceeds an amount of Rs. 1 lakh and is an undisputed debt. This examination would be in consonance with the test which has been laid down by the Hon'ble Supreme Court in ***Mobilox judgment supra*** for the

Adjudicating Authority while examining an application under Section 9, the relevant excerpts of which are as follows:-

“34. Therefore, the adjudicating authority, when examining an application under Section 9 of the Act will have to determine:

(i) Whether there is an “operational debt” as defined exceeding Rs. 1 lakh? (See Section 4 of the Act)

(ii) Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid? And

(iii) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational debt in relation to such dispute?

If any of the aforesaid conditions is lacking, the application would have to be rejected. Apart from the above, the adjudicating authority must follow the mandate of Section 9, as outlined above, and in particular the mandate of Section 9(5) of the Act, and admit or reject the application, as the case may be, depending upon the factors mentioned in Section 9(5) of the Act.”

13. From a perusal of material on record, we find that a notice for default of payment was issued by Respondent No.1 to the Corporate Debtor on 05.02.2019 as is placed at Annexure-L in the Appeal Paper Book (**‘APB’** in short). The notice clearly mentions that the Corporate Debtor had been irregular in the payment of rent since 10.03.2017 and that no payment towards rent and GST was made since 30.08.2018. The Corporate Debtor was also called upon to make payment of total outstanding amount of Rs.52.64 lakhs including interest. Further in Part-IV, the operational debt claimed is Rs.94.66 lakhs inclusive of the arrears of rent and GST from 10.03.2017 till 31.05.2019 as principal amount of Rs.63.59 lakhs; Rs.13.59 lakhs as interest amount and Rs.17.47 lakhs as User and Occupation

Charges from 01.06.2019 to 30.09.2019. In addition, an amount of Rs.4.48 lakhs per month after deduction of TDS and addition of GST has been claimed till continuance of the occupation of the leased premises. This clearly shows that the Operational Creditor had been consistently pressing for release of their outstanding amount while there is nothing on record to show that the Corporate Debtor objected or controverted the claims raised by the Operational Creditor prior to the issue of Section 8 Demand Notice. The above findings clearly establish that the first two conditions laid down in the ***Mobilox judgment supra*** of operational debt exceeding Rs. 1 lakh and having become due and payable but not yet paid is squarely met.

14. This now brings us to the third aspect of the ***Mobilox judgment supra*** as to whether any genuine and real pre-existing dispute is discernible in the facts of the present case and before we dwell into the facts before us we feel that it is useful to quote the guiding principles laid down in this judgment as under:

*"40. It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(2)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the **"dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster.** However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. **The Court does not at this stage examine the merits of the dispute***

except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application."

(Emphasis Supplied)

15. Before we delve into the various grounds of pre-existing disputes raised by the Corporate Debtor, we notice that admittedly the Section 8 notice had not been replied to by the Corporate Debtor. Be that as it may, we cannot discount the stand taken by the Corporate Debtor that even if reply to Section 8 notice was not given, the Corporate Debtor is not precluded from establishing the existence of pre-existing disputes in its pleadings.

16. Coming to the objection raised on whether rentals due from premises leased to the Corporate Debtor qualifies to be treated as an operational debt and whether Respondent No. 1 legally enjoyed the status of an Operational Creditor, we find that this issue has been adequately and satisfactorily replied to by the Respondent No.1. We entirely agree with the Respondent No.1 that in accordance with the judgement of this Tribunal in ***Jaipur Trade Expo Centre supra***, it is well settled that payment of license fee for use of leased premises for business purposes is clearly an operational debt. A conjoint reading of Sections 5(20) and 5(21) of IBC also clearly establishes that tenancy and lease rent dues fall in the category of operational debt as defined under Section 5(21) of IBC. Further, the question mark raised on the legitimacy of the Operational Creditor to raise the demand qua the Corporate Debtor also lacks force in view of the Respondent No.1 having claimed to have inherited the role of lessor based on registered wills dated 09.10.2013 and 24.08.2016 as placed on affidavit at pages 49-63 of the Reply filed by Respondent No.1. That the death of the deceased parents of the lessor had been communicated

to the Appellant on 01.05.2018 and 16.06.2018 is evident from two emails as placed at pages 106-107 of APB. Further, not finding any material on record to show that that these communications were disputed by the Appellant earlier, we are of the considered view that this cannot now be raised as a ground of pre-existing dispute.

17. It is the case of the Respondent No.2 that rent and TDS payments were being made by HBI and hence Respondent No.2-HFPL cannot be considered to be the Corporate Debtor. Moreover, it is contended that when HFPL had assigned the lease to HBI for which the Lessor had given NOC to the assignment, then Respondent No. 1 cannot file the Section 9 application against HFPL. We have therefore perused the NOC dated 16.12.2016 as placed at page 246 of the APB. In the preface to the NOC, it is pertinent to note that it is clearly stated that premises has been given on lease to HFPL through its Director, Mr. Ashok Kumar Aggarwal. As regards the assignment of the lease to HBI, the said NOC reads as below:

“We do not have any objection if M/s Haldiram Bhujawala Inc (sister concern of M/s Haldiram Fincap Pvt Ltd) is using the premises for business purposes and is applying for Service Tax Registration on the said premises.

This certificate has been issued on the request of our tenants M/s Haldiram Fincap Pvt Ltd for registration purposes only and we will not be held responsible personally or against the premises, for any taxes due from M/s Haldiram Fincap Pvt Ltd.”

18. It therefore becomes clear that the NOC was sought on the request of HFPL for service tax registration purposes for allowing the leased premises to be used by its sister concern, HBI. This does not dilute the fact that the lessee was HFPL and not HBI. At a time when the lease deed was signed between Shri Ram Prakash Sachdeva acting through his duly constituted attorney, Mr.

Sunil Sachdeva and HFPL; when the termination of the lease deed dated 28.04.2019 was also addressed by the Operational Creditor to HFPL; when the Legal Notice dated 22.10.2019 served on the Operational Creditor was by HFPL and not by HBI; when the Commercial Suit filed against the Operational Creditor was by HFPL and not by HBI; when the prayer made in the commercial suit by HFPL is for passing a decree for a sum of Rs.1.50 crore being amount of damages caused to them for not being able to pursue their commercial operations, it clearly shows that the HFPL was all along the actual lessee of the leased premises and therefore cannot shy away from this fact to circumvent the legal proceedings initiated by the Operational Creditor.

19. As regards the other dispute raised by the Corporate Debtor with regard to their email dated 18.01.2018 on non-payment of conversion charges for the said property to the MCD and hence the denial of MCD health license to the Corporate Debtor and consequential non-usability of the leased premises for commercial purposes leading to business losses, it was pointed out by the Appellant that the email of 18.01.2018 clearly highlights a pre-existing dispute.

20. This issue has been duly considered and examined by the Adjudicating Authority in the impugned order and the findings are as extracted hereunder:

“18. We have perused the email dated 18.01.2018, the contents of the said email are extracted below:

“This is for your kind information that we have trying to last ten days for obtain the MCD Health Licence at MCD Anand Parvat Office. The department has not accepted our request letter due to conversation charges not paid by you against the property. We have lot of tried and ex-plane about the no liability of conversion of this property but the department has not agreed.

We are requested is kindly come the MCD office for explain to the officer.”

On perusal of the said email, we do not think that there is any whisper about any pre-existing dispute. Rather, the said email mentions about obtaining the MCD Health Licence at MCD Health Anand Parvat Office. Therefore, in our view, it cannot be considered to be pre-existing dispute.”

21. To ascertain and assess the tenability of the findings of the Adjudicating Authority, it may be constructive to first take notice of the clauses of the Registered Sale Deed entered between the two parties. Clauses 2.3 and 9.1 of the Sale Deed is relevant to be noticed which is as reproduced below:

"2.3. Purpose of Lease and use of Demised premises. The Demised premises shall be used by the Lessee for the exclusive and limited purpose of running and operating, subject to applicable local laws, for its business of "multipurpose food business". The Demised Premises shall not be put to any other use. The purpose of this Lease shall at all times be legal, not contrary to public order and shall be in compliance and conformity with all applicable laws, guidelines, rules and regulations.

“9.1 The Lessor warrants to the Lessee that, the ground floor of the Demised Premises is permitted to be used for commercial purposes while the first and second floors are purely residential in nature with no commercial use permitted therein. The Lessee has understood these statutory restrictions on use of the Demised Premises and agreed to use the Demised Premises as per the same. In case the Lessee desires to use the first floor and/or the second floor of the Demised Premises for any commercial activity, any commercial conversion cost/charges/taxes etc. or any other costs/charges/taxes etc. arising due to the same shall be the sole liability of the Lessee and should be duly paid by the Lessee.”

(Emphasis Supplied)

22. From a plain reading of the above covenants of the Lease Deed, it is abundantly clear that it was the sole responsibility of the Lessee to pay the

conversion charges. In view of the above, the contention of the Corporate Debtor that in their email of 18.01.2018 they had raised the omission committed on the part of the Operational Creditor does not stand to reason. We find no cogent reasons to disagree with the Adjudicating Authority that this email constitutes a feeble ground to establish a pre-existing dispute.

23. Even the Legal Notice dated 22.10.2019 sent by the Corporate Debtor to the Operational Creditor premised on the email of 18.01.2018 lacks force. Quite apart from the fact that the Legal Notice was sent at a much belated stage, post the issue of the Demand Notice, we also find that this notice was also replied to by the Operational Creditor on 28.11.2019. Besides advertent attention to Clause 9.1 of the Leased Deed, reference was also made by the Operational Creditor to Clause 5.2 wherein it was clearly indicated that the possession of the leased premises was given on 'as is where is' basis and that the Corporate Debtor had satisfied themselves regarding usage of the leased premises. The relevant excerpts of the said reply to the Legal Notice reads as under:

"8. That your present notice is nothing but a counterblast to the all notices dated 05.02.2019, 28.04.2019 served by our Client upon you calling upon to make payment of monthly lease rent and other charges along with interest. That vide notice dated 05.02.2019 you were called upon to make payment of the rent and interest from 30.08.2018 till 31.01.2019 as per the clause 4 of the said Lease Deed wherein 60 days grace period was given to you to rectify the breach and to make payment, however despite service of the said notice you did not made the payment hence our client was constrained to terminate the said lease vide notice dated 28.04.2019, as per clause 20.2 of the Lease Deed, and you were called upon to make payment of Rs.63,59,500/- as arrears of rent and interest from 30.08.2018 till 31.05.2019 and Rs.9,20,909/- towards interest as on 31.05.2019 and damages to the tune of Rs.12,63,600/- for the period of 31.05.2019 to 31.08.2019. It is further stated that all such requests and reminders of our Client went to deaf ears and you deliberately and with mala fide and dishonest intention chose to avoid the same. You are a habitual

defaulter, who has knowingly neglected to pay the lawful contractual dues to our Client and thus, have conducted in breach of contract and breach of trust.

9. It is further reminded you that thereafter on account of failure on your part, a demand notice dated 17.09.2019 under The Insolvency and Bankruptcy Code, 2016 was also served upon you; however to no avail. That instead of making the payment of lawful contractual dues, with mala fide and unlawful objectives to avoid your lawful liabilities, you have got the present legal notice under reply, served upon our Client on absolutely false, frivolous and vexatious grounds, the contents of which are, save and except specifically accepted, vehemently denied parawise hereinbelow.....

(Emphasis Supplied)

24. Furthermore, prima facie it is an undisputed fact that the legal notice dated 22.10.2019 was served after the filing of the Section 9 application and therefore cannot qualify as a pre-existing dispute. This lends credence to the contention of the Operational Creditor that this legal notice was served as an after-thought with mala fide intention to raise a spurious defence to evade the liability to clear the outstanding rentals.

25. Now coming to the issue of disputes emerging from the commercial suits filed by both parties independently, we notice from material placed on record at pages 164-185 of APB that a Commercial Suit was filed by Respondent No.2 in February, 2020. The date of filing this suit is indisputably post the filing of Section 9 application and hence cannot be treated as a ground of pre-existing dispute. This brings us to the mediation application filed on 02.07.2019 by the Respondent No. 1 before the Mediation Centre, Tis Hazari against Corporate Debtor-HFPL under Section 2(1)(c) of the Commercial Courts Act, 2015 reiterating that HFPL had not made any payment towards rent and GST payment in respect of the leased property since 30.08.2018. The said mediation application is placed at page 307-311

of the APB. It is also seen at page 306 of APB that when the mediation application came up before the competent authority on 13.08.2019, though the proxy counsel of Corporate Debtor-HFPL was present, the proxy counsel refused to participate in the mediation process and hence the matter was held to be a 'Non-Starter'. Since the matter became a 'Non-Starter', the mediation application stood closed. In such circumstances, the claim made by the Corporate Debtor that the commercial civil suit was pending in the Tis Hazari Court lacks foundation. Furthermore, when HFPL on their own accord refused to participate in the mediation process, it cannot now embark on the argument that the mediation application signifies pre-existing dispute. Therefore, we are of the considered view that neither of the two commercial suits can be construed to be a pre-existing dispute.

26. We find that the Adjudicating Authority in the present case has carefully considered the reply and submissions made by the Corporate Debtor and has correctly come to the conclusion that there is no ground to establish any real and substantial pre-existing dispute which can thwart the admission of section 9 application against the Corporate Debtor. We have no hesitation in observing that in the present case there is no real pre-existing disputes discernible from given facts and all other requisite conditions necessary to trigger CIRP under Section 9 stands fulfilled.

27. From the aforesaid discussion and analysis of facts and circumstances, we are of the considered opinion that the Corporate Debtor has defaulted in the payment of operational debt above the prescribed threshold level which amount had clearly become due and payable, and further in the absence of any pre-existing dispute, we find that no error has

been committed by the Adjudicating Authority in admitting the application under Section 9 of IBC and initiating CIRP. The interim stay on the CIRP process granted by this Tribunal on 16.03.2023 stands vacated. The Registry is directed to take appropriate action without any delay to refund the amount of Rs.77.18 lakhs which was deposited by the Appellant in pursuance of interim order of this Tribunal. IRP to take action forthwith to constitute the CoC and proceed with CIRP of the Corporate Debtor as per law. We find no merit in this Appeal. Appeal is dismissed. No Costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Place: New Delhi
Date: 02.07.2024
Ashok Kumar