

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 904 of 2021

(Arising out of Order dated 21.10.2021 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench II in I.A. No. 2365 of 2021 and I.A. No. 2366 of 2021 in I.A. No. 2286 of 2021 and I.A. No. 2275 of 2021 in C.P. (IB) No. 1781 (ND)/2018)

IN THE MATTER OF:

Aashray Social Welfare Society & Ors.

...Appellants

Versus

Saha Infratech Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellants: Mr. Krishnendu Datta, Sr. Advocate with Mr. Raghavendra M Bajaj, Advocates.

For Respondents: Mr. Ashish Makhija & Ms. Richa Singh, Advocates for R-1 (RP).

Mr. Virendra Ganda, Sr. Advocate alongwith Mr. Atul Sharma, Ms. Renuka Iyer, Mr. Aditya Vashisth, Mr. Gaurav Mitra and Ms. Himanshi Vashisht, Advocates for R-2 & R-3.

J U D G M E N T

ASHOK BHUSHAN, J.

This Appeal has been filed against the order dated 21.10.2021 passed by the Adjudicating Authority (National Company Law Tribunal), Bench-II by which I.A. No. 2365/2021 and I.A. No. 2366/21 filed by the Appellants for impleadment has been rejected. The Appellant No.1 is a registered society comprised of 102 members who all are allottees of “Amadeus” a real estate project being developed by the Corporate Debtor.

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Appellant Nos. 2 to 5 are allottees in the above project of the Corporate Debtor. Brief facts of the case and sequence of events necessary to be noted for deciding the Appeal are:-

- (i) Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor commenced vide order dated 28.02.2020 passed by the Adjudicating Authority on an application under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') filed by three individual Financial Creditors.
- (ii) Interim Resolution Professional (IRP) did not take charge in pursuance of the order dated 28.02.2020. The Appellant were constraint to file application seeking replacement of the IRP being I.A. No. 3371 of 2020.
- (iii) The Appellant also filed an appeal in this Tribunal being Company Appeal (AT) (Insolvency) No. 166 of 2021 seeking direction to the NCLT to appoint new IRP which Appeal was disposed of by order dated 08.03.2021.
- (iv) Subsequently, the Adjudicating Authority appointed the Respondent No. 3 as IRP by order dated 05.04.2021. The Committee of Creditors (CoC) comprises of the Homebuyers (99.85%) and Members of the Appellant No.1 constitutes 70% of the CoC.
- (v) Respondent No. 2 and 3 filed their claim before the IRP. Respondent No. 2 and 3 filed I.A. No. 2167 of 2021 seeking direction against the IRP to admit the claim of Respondent No. 2

and 3. The said application was heard by the Adjudicating Authority and Appellant's counsel was also given a hearing and Appellants were allowed to file Written Submissions opposing the claim of Respondent No. 2 and 3. The IRP had partially rejected the claim of Respondent No. 2 and completely rejected the claim of Respondent No. 3 both Respondent No. 2 and 3 being related parties of the Corporate Debtor.

- (vi) Being aggrieved by the decision of the IRP dated 16.05.2021, the Respondent No. 2 and 3 have filed I.A. No. 2275 of 2021 and I.A. No. 2286 of 2021, respectively, which I.As. are pending adjudication before the Adjudicating Authority.
- (vii) In the aforesaid two I.As. filed by Respondent No. 2 and 3, Appellants filed I.A. No. 2365 of 2021 and I.A. No. 2366 of 2021 for being impleaded in the said applications because in the Applications Respondent No. 2 and 3 have not impleaded the Appellants as party respondent, which applications have been rejected by the impugned order. The Adjudicating Authority took the view that Authorised Representative of the Homebuyers since have no role in receipt or verification of the claims of creditors of the class he represents, then the association or the allottees shall have no role in receipt or verification of claims of creditors and rejected the applications. Being aggrieved of the order of rejection this Appeal has been filed.

2. We have heard Shri Krishnendu Datta, learned senior counsel for the Appellant, Shri Ashish Makhija, learned counsel appearing for the Resolution Professional and Mr. Virender Ganda, learned senior counsel with Mr. Aditya Vashisth, Mr. Atul Sharma and Mr. Gaurav Mitra appearing for Respondent No. 2 and 3.

3. Shri Krishnendu Datta, learned counsel for the Appellant submits that the association of society represents 70% of the CoC and inclusion of claim of Respondent No. 2 and 3 shall prejudice the Homebuyers allottees as a class as the interest of Respondent No. 2 and 3 shall be to recuperate their disbursed amount rather than completion of the project. In event, the claim of Respondent No. 2 and 3 is accepted, the Homebuyers who comprise 100% of the CoC will be relegated to minority position. The Appellants being diligently pursuing the rights of the Homebuyers, the Appellants were heard by the Adjudicating Authority itself in the earlier application filed by the Respondent No. 2 and 3 by which they sought direction to the IRP to admit the claim. At the time of hearing of I.A. No. 2275 of 2021 and 2286 of 2021 serious allegations were made against the Appellants alleging that there is collusion between the Appellants and the IRP. Appellants have right to be heard so that they are able to refute the baseless allegations of collusion with IRP. The Adjudicating Authority has wrongly taken the view that since Authorised Representative has no right with regard to claim of the Financial Creditors, Appellants shall also have not right to be heard in hearing of the Applications filed by the Respondent No. 2 and 3 challenging the order rejecting their claim. The Appellants

have independent right to protect their right and interest and they are necessary party being Financial Creditors to be heard in opposing the claim of Respondent No. 2 and 3.

4. Learned counsel for the RP submits that Appellants were heard by the Adjudicating Authority in the earlier round when Respondent No. 2 and 3 has filed I.A. No. 2167 of 2021 seeking direction to IRP to admit their claim and an active role has been placed by the Appellants in the CIRP of the Corporate Debtor.

5. Shri Virender Ganda, learned counsel appearing for Respondent No. 2 and 3 refuting the submissions of learned counsel for the Appellant submits that Appellants being members of a Financial Creditor in a class shall have no right to oppose the claim of Respondent No. 2 and 3. Permitting one Financial Creditor to oppose claim of another Financial Creditor shall lead to a chaos which is not intended by the statutory scheme under the I&B Code. Every Financial Creditor has right in so far as his claim is concerned, however, one Financial Creditor has no right to oppose the claim of other Financial Creditor. The Respondent No. 2 and 3 being a Financial Creditors and their claim having been wrongly rejected by the IRP, they are entitled to participate in the CoC according to their voting share and the Appellants have no right to oppose inclusion of Respondent No. 2 and 3 in the CoC. Despite due presence of an Authorised Representative for the Homebuyers i.e. creditors in class their application being I.A. No. 2365 of 2021 and I.A. No. 2366 of 2021 has not been filed by

the Authorised Representative rather the same were filed by the Appellants. It is submitted that the Appellants cannot represent entirety of the class of the Creditors i.e. Homebuyers instead they are merely few individual Financial Creditors – Allottees. There is no locus of the Appellants to seek impleadment and make submissions in Applications filed by Respondent No. 2 and 3 against rejection of their claim. The relief claimed in the Application by Respondent No. 2 and 3 are against the IRP in which no other creditor can be allowed to intervene in the process of admission and verification of the claim of other Financial Creditor. The proceedings initiated by Respondent No. 2 and 3 have to be confined to the Respondent No. 2 and 3 who are the applicants and the IRP only. On the ground to protect Appellants' majority voting interest Appellants have sought impleadment which cannot be a ground to intervene in the applications filed by Respondent No. 2 and 3. The Adjudicating Authority has rightly held in the impugned order dated 21.10.2021 that Authorised Representative has no role in receipt or verification of the claim of the class of creditors he represents and when Authorised Representative has no role in receipt or verification of claims of Creditors in class Association/ Allottees shall also have no role in receipt or verification of claim of Financial Creditor.

6. Learned counsel for the parties have placed reliance on the judgment of Hon'ble Supreme Court in support of their respective submissions which shall be referred to while considering submissions in detail.

7. We have considered submissions of learned counsel for the parties and perused the record.

8. From the submissions of learned counsel for the parties and materials on the record following are the issues which arise for consideration in this Appeal:-

- (i) Whether the application for impleadment filed by the Appellants before the Adjudicating Authority seeking impleadment in I.A. Nos 2275 of 2021 and 2286 of 2021 deserve rejection on the ground that Authorised Representative of Homebuyers who are creditors in class is not representing the creditors in a class before the Adjudicating Authority?
- (ii) Whether the Appellants have no right to participate in adjudication of the claim of the Financial Creditors whose claim has been rejected by the IRP?
- (iii) Whether the Adjudicating Authority committed error in rejecting impleadment application filed by the Appellants?

9. All the three questions as noted above being interrelated are taken together. The main reasons for rejecting the impleadment application filed by the Appellants given by the Adjudicating Authority is in Para 23 and 24 of the impugned order, which is to the following effect:-

“23. As we have already referred to Section 21(6A) and 25A of the IBC, 2016 under which, the class of creditors shall appoint the authorised

representative and we have also referred to the Regulation 16A (5) of the IBBI Regulations, which shows that the authorized representative shall have no role in receipt or verification of claims of creditors of the class, he represents. If the authorized representative shall have no role in receipt or verification of claims of creditors of the class, he represents, then the association or the allottees who come under the class of creditors, in our considered view, shall also have no role in receipts or verification of claims of creditors rather it is the IRP or the RP, who is to decide the claims submitted by the creditors.

24. Here, the ACRE and ITSL have filed the applications against the rejection of their claims by the IRP. Therefore, we are of the considered view that the applicants in both the IAs under consideration are not a necessary party to the respective proceedings.”

10. We need to first examine the statutory scheme for role of an Authorised Representative of a creditor in a class. Section 21 deals with the CoC. Section 21(6-A) which is relevant in the present case is as follows:-

“21(6-A) *Where a financial debt –*

(a) is in the form of securities or deposits and the terms of financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such

trustee or agent shall act on behalf of such financial creditors;

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

(c) is Representative by a guardian, executor or administrator, such person shall act as authorised representative on behalf of such financial creditors,

and such authorised representative under clause (a) or clause (b) or clause (c) shall attend the meetings of the committee of creditors, and vote on behalf of each financial creditor to the extent of his voting share.”

11. Section 25-A deals with rights and duties of Authorised Representative of financial creditors, which is to the following effect:-

“25-A. Rights and duties of authorised representative of financial creditors. – (1) The authorised representative under sub-section (6) or

sub-section (6A) of section 21 or sub-section (5) of section 24 shall have the right to participate and vote in meetings of the committee of creditors on behalf of the financial creditor he represents in accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

(2) It shall be the duty of the authorised representative to circulate the agenda and minutes of the meeting of the committee of creditors to the financial creditor he represents.

(3) The authorised representative shall not act against the interest of the financial creditor he represents and shall always act in accordance with their prior instructions:

Provided that if the authorised representative represents several financial creditors, then he shall cast his vote in respect of each financial creditor in accordance with instructions received from each financial creditor, to the extent of his voting share:

Provided further that if any financial creditor does not give prior instructions through physical or electronic means, the authorised representative shall abstain from voting on behalf of such creditor.

[(3-A) Notwithstanding anything to the contrary contained in sub-section (3), the authorised representative under sub-section

(6A) of section 21 shall cast his vote on behalf of all the financial creditors he represents in accordance with the decision taken by a vote of more than fifty per cent. of the voting share of the financial creditors he represents, who have cast their vote:

Provided that for a vote to be cast in respect of an application under section 12A, the authorised representative shall cast his vote in accordance with the provisions of sub-section (3).]

(4) The authorised representative shall file with the committee of creditors any instructions received by way of physical or electronic means, from the financial creditor he represents, for voting in accordance therewith, to ensure that the appropriate voting instructions of the financial creditor he represents is correctly recorded by the interim resolution professional or resolution professional, as the case may be.

Explanation. – For the purposes of this section, the “electronic means” shall be such as may be specified.”

12. The statutory scheme as is reflected from Section 21(6-A) and Section 25-A of the Code indicates that the Authorised Representative is chosen to represent the creditor in a class in the CoC. The Authorised Representative needs to attend the meeting of the CoC and vote on behalf of the Financial Creditor to the extent of voting share of the Financial Creditor. The

Adjudicating Authority in its order has referred to Regulation 16A Sub-regulation (5) of the CIRP Regulations, 2016. Regulation 16A deals with the Authorised Representative. Regulation 16A provides for procedure of choosing an Authorised Representative of creditors of the respective class. The Sub-regulation 16A(5) contains a clarifications, which is to the following effect:-

“16A(5). The interim resolution professional or the resolution professional, as the case may be, shall provide an updated list of creditors in each class to the respective authorised representative as and when the list is updated.

Clarification: The authorised representative shall have no role in receipt or verification of claims of creditors of the class he represents.”

13. The clarification under Regulation 16A(5) is that the Authorised Representative shall have no role in receipt or verification of claims of creditors of the class he represents. The Authorised Representative is to be chosen after claims of Financial Creditors in a class is submitted in Form-CA. The stage of choosing an Authorised Representative of a creditor in a class is much after receipt of a claim under Chapter IV of the Regulation and after verification of a claim under Regulation 13. After verification of claim under Regulation 13, list of creditors is made available for inspection by the person who have submitted proof of claim and is available for inspection by others as enumerated under Regulation 13. The clarification appended to Regulation 16A(5) is only clarification to the

statutory scheme delineated under the Regulations and the Code that the Authorised Representative has no role in respect of verification of claim of a creditor in class. Can it be said that the Authorised Representative has no role in respect of verification of claims of creditors, therefore, the Financial Creditors in a class themselves have also no right with regard to receipt or verification of claims. The answer is obviously no. The Financial Creditor in class have every right to submit their claim giving proof of verification.

14. The mere fact that the Authorised Representative of a creditor in a class have no role in receipt and verification of the claim of the creditors, it cannot be held to mean that creditors in a class have no right with regard to receipt and verification of their claim. The clarification as contained in Regulation 16A(5) has been read by the Adjudicating Authority to an extent which it never meant. The conclusion recorded by the Adjudicating Authority in paragraph 23 on the basis of erroneous interpretation of Regulation 16A(5) resulted in a wrong conclusion that the creditors in a class have no role in receipt or verification of claims of creditors.

15. The present is a case where the question for consideration is the right of impleadment of Appellants in Applications filed by Respondent No. 2 and 3 challenging the rejection of their claim as Financial Creditors. The Appellants are also Financial Creditors in a class and they represent majority of the Homebuyers in class, as has been pleaded by the Appellants. The Financial Creditors in a class, who at present consist of

99.85% of CoC, have every right to be heard in the Applications filed by Respondent No. 2 and 3 whose claim has been partly and fully rejected, respectively by the IRP. The Authorised Representative under the statutory scheme as noticed above is to represent the Financial Creditors i.e. Homebuyers in a class for a limited purpose i.e. for attending meetings of the CoC and voting on behalf of the Financial Creditors in a class. It cannot be said that since the Authorised Representative has not come up before the Adjudicating Authority for filing the impleadment application, the Appellants who themselves are Homebuyers have no right to participate in the adjudication initiated by filing applications by Respondent No. 2 and 3.

16. Learned counsel for the Appellant places reliance on the judgment of Hon'ble Supreme Court in "*Phoenix Arc Private Limited vs. Spade Financial Services Limited & Ors.*", (2021) SCC OnLine SC 51. In the above case Phoenix Arc Pvt. Ltd. and the Yes Bank were the Financial Creditors of the Corporate Debtor. The claim of two other entities i.e. AAA Landmark Pvt. Ltd. and Spade Financial Services Pvt. Ltd. claiming to the members of CoC was rejected by NCLT. In Para 12, 13, 14 and 15 of the Judgment facts pertaining to the proceedings before NCLT have been noticed, which are to the following effect:-

"12. The application moved on behalf of YES Bank under Section 60(5), on 28 June 2018, sought the following reliefs:

(i) A direction to the IRP to reconstitute the CoC in terms of the Insolvency and Bankruptcy

(Amendment) Ordinance 2018 (“IBC Ordinance 2018”); and

(ii) A direction prohibiting the IRP from allowing AAA and Spade to participate and vote in the meeting of the COC.

13. The applications filed under Section 60(5) by Phoenix also sought similar reliefs for:

(i) The removal of Spade and AAA from the CoC; and

(ii) Directing the constitution of the CoC in terms of the IBC Ordinance 2018.

14. NCLT in its judgment dated 19 July 2019 formulated two issues for determination. These two issues were:

“i. What is the nature of the transaction between the parties and does it qualify to be treated as financial debt as defined under Section 5(8) of IBC, 2016.

ii. What is the date on which there should be relation between the two parties for the alleged Financial Creditor to be included in the definition “related party’.”

15. In relation to the first issue, the NCLT held that:

“...the transactions between CD and both SPADE and AAA Landmark are collusive in nature and do not qualify as financial debt for the purpose of IBC.”

Accordingly, NCLT held that Spade and AAA did not qualify to be considered as financial creditors.”

17. The applications were filed by Phoenix Arc Pvt. Ltd. and Yes Bank for keeping out AAA Landmark Pvt. Ltd. and Spade Financial Services Pvt. Ltd. from the CoC. The Hon'ble Supreme Court held that Phoenix Arc Pvt. Ltd. and Yes Bank being Financial Creditors they were legitimately within the right to seek direction for exclusion of AAA Landmark Pvt. Ltd. and Spade Financial Services Pvt. Ltd. from the CoC. In paragraphs 34 and 35 following has been laid down:-

“34. Having held that the transactions between the corporate debtor on one hand and AAA and Spade on the other did not qualify as a financial debt, the Adjudicating Authority commenced its discussion on the second issue by stating that it “does not require a reply” in view of the finding on the first issue. However, it then noted that the first proviso to Section 21(2) has been substituted with effect from 6 June 2018, the effect of which is to exclude a financial creditor who is a related party of the corporate debtor from being represented in and from participating or voting in a meeting of the CoC. After advertng to the definition of the expression ‘related party’ in Section 5(24), the Adjudicating Authority held:

“There is no doubt in our mind that Arun Anand and his companies, namely, Spade and AAA Landmark were related parties to the CD. However, after 2013 (soon after signing the Agreement to Sell signed on 25.10.2012) Arun Anand resigned from all the companies of The Anil Nanda Group and so they are no

longer related to the CD at the time of filing of application of CIRP.”

35. *Eventually, the NCLT concluded that the applications filed by YES Bank and Phoenix would have to be allowed. Its conclusion is extracted below:*

“13. Before parting with this application, we would like to observe that the affairs of the CD as well as the Group of Arun Anand companies are deeply entangled and it is difficult for the Tribunal in a summary jurisdiction to unravel the same. Considering that the CD and Spade and AAA were Registrar of Companies since 2016, we have no hesitation in allowing the instant applications filed by Yes Bank Limited and Phoenix ARC Private Limited.””

18. Hon'ble Supreme Court observed that claim of one Financial Creditor to keep out other Financial Creditor from CoC need to be examined and order passed without opportunity to financial creditors shall not operate as *res judicata*.

19. In the present case the claim of Respondent No. 2 and 3 to be member of CoC has been rejected by the IRP challenging which order Applications I.A. No. 2275 of 2021 and I.A. No. 2286 of 2021 have been filed by Respondent No. 2 and 3 before the Adjudicating Authority. The Appellants, before the Adjudicating Authority who are Financial Creditors in a class and Appellant No. 1 representing more than 60% of Homebuyers prays for impleadment to oppose the claim filed by Respondent No. 2 and 3. The judgment of Hon'ble Supreme Court in 'Phoenix Arc Pvt. Ltd.' (Supra) fully

supports the contention raised by learned counsel for the Appellants. Learned counsel for the Respondent Nos. 2 and 3 contends that judgment of Hon'ble Supreme Court in 'Phoenix Arc Pvt. Ltd.' (Supra) is not applicable. It is submitted that 'Phoenix Arc Pvt. Ltd.' was a case of Financial Creditor and not a case of creditors in a class i.e. Homebuyers who have limited locus to agitate individual issues. It is submitted that the creditors in a class have to be collectively represented through the Authorised Representative, who is not representing the Appellants in the present case. Further, it is submitted that in the Judgment of Hon'ble Supreme Court in 'Phoenix Arc Pvt. Ltd.' the transactions were collusive in nature, whereas the present matter relates simple financial transactions i.e. Facility Agreement and Debenture Trust Deed. We do not subscribed to the above submissions of learned counsel for the Respondents No. 2 and 3 to distinguish the applicability of Judgment of Hon'ble Supreme Court in 'Phoenix Arc Pvt. Ltd.' in the facts of the present case. We have already held that there is no provision in the Code that before the Adjudicating Authority it is the Authorised Representative who has to represent the creditors in a class. Authorised Representative has a limited role assigned under the statutory scheme i.e. to attend the meetings of CoC and to cast votes on behalf of the creditors in a class. As per the statutory scheme, there is no such requirement in law that the Authorised Representative shall represent the creditors in a class before the Adjudicating Authority in an adjudication. We have also noticed while noticing facts of the present case that prior to filing of the Applications I.A. No. 2275 of 2021 and I.A.

No. 2286 of 2021, the Respondent No. 2 and 3 had filed an application being I.A. No. 2167 of 2021 seeking direction against the IRP to admit the claim of Respondent No. 2 and 3 in which application the Adjudicating Authority heard the Appellants and granted time to file their written submissions. Adjudicating Authority passed order dated 10.05.2021, which is to the following effect:-

“ORDER

IA-2167/2021: *Heard the Ld. Counsel appearing for the Applicants Mr. Vierender Ganda, Mr. Arun Kathpalia, Sr. Counsle assisted by Mr. Gaurav Mitra as well as Mr. A. Makhija Counsel for the IRP and Mr. K. Dutta Sr. Counsle appearing for the allottees. The IRP accepts the notice and submits that he has received the copy of the application. The IRP is directed to file the reply on or before 14th May, 2021.*

List the matter on 17th May 2021 for hearing. During the period, no COC meeting would be held by the IRP. All the parties are requested to file a short synopsis on or before 16th May 2021. Mr. Dutta is also at liberty to file a short synopsis on behalf of allottees.”

20. In pursuance to the above liberty granted by the Adjudicating Authority, the Appellants had also filed written submissions. When the Adjudicating Authority itself has heard the Appellants in the earlier adjudication where Respondent Nos. 2 and 3 came before the Adjudicating

Authority seeking direction to admit their claim, we fail to see any reason in not giving opportunity to the Appellants when subsequently Applications - I.A. No. 2275 of 2021 and I.A. No. 2286 of 2021 were filed by the Respondent No. 2 and 3 after rejection of their claim by the IRP.

21. One more submissions has been raised by the learned counsel for the Appellants that the Respondents in their written submission filed before the Adjudicating Authority in I.A. No. 2275 of 2021 and I.A. No. 2286 of 2021, have made allegations against the Appellants. It is the case of Respondent No. 2 and 3 that the Homebuyers Association and the IRP are in connivance with each other against them. Learned counsel for the Appellant has referred and relied on short written synopsis filed by IDBI Trusteeship Services Ltd. where in paragraph (x) following has been stated:-

“x. The IRP and the Home buyers association are in connivance with each other against the Applicant

It is most respectfully submitted that the Home buyers Association and the IRP are, in connivance with each other, trying to oust the Applicant from recovering its debts and enforcing its right in the CoC. The unholy alliance between the IRP and the Homebuyers Association is clearly visible from the similarity in pleadings between the Written Synopsis filed by the Home Buyers Association dated 16.05.2021 and the rejection letter of the IRP dated 16.05.2021 which is produced in a tabular form as under:”

22. When allegation of connivance has been made against the Appellants by the Respondents No. 2 and 3 themselves before the Adjudicating Authority, we are of the view that the Appellants have every right to be heard before the Adjudicating Authority.

23. In view of the foregoing discussion, we are of the view that the Adjudicating Authority committed error in rejecting impleadment application filed by the Appellants to implead them as party respondent in I.A. No. 2275 of 2021 and I.A. No. 2286 of 2021. In result, the Appeal is allowed. Order dated 21.10.2021 of the Adjudicating Authority rejecting I.A. Nos. 2365 of 2021 and 2366 of 2021 is set aside. I.A. Nos. 2365 of 2021 and 2366 of 2021 are allowed. Let the Appellants be impleaded as party respondents in I.A. No. 2275 of 2021 and I.A. No. 2286 of 2021. Parties shall bear their own cost.

**[Justice Ashok Bhushan]
Chairperson**

**[Shreesha Merla]
Member (Technical)**

NEW DELHI

1st June, 2022

Archana