

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1



ITEM No.7

IA/537(AHM)2021 in CP(IB) 563 of 2018

Order under Section 60(5) IBC,2016

IN THE MATTER OF:

SKILInfrastructure Ltd

.....Applicant

V/s

Chandra Prakash Jain RP of E Complex Pvt Ltd

.....Respondent

Order delivered on: 18/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH

COURT-1

IA/537(MP)2021
in

[CP(IB)/563/9/AHM/2018]

IA/537(MP)2021

(An application under Sec. 60(5) of IBC, 2016)

SKIL Infrastructure Ltd

SKIL House, 209, Bank Street Cross Lane,
Fort, Mumbai-400 023.

...Applicant

Versus

Mr. Chandra Prakash Jain

Interim Resolution Professional of
E-Complex Private Limited,
D-501, Ganesh Meridian,
Opp. Gujarat High Court,
S.G. Road, Ahmedabad-380 060.

.....Respondent No. 1

In the main matter of: [CP(IB)/563/9/AHM/2018]

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016)

AP Securitas Private Limited,

Building No. 10, DDA Commercial Complex,
Nangal Raya, New Delhi-110 046.

..... Operational Creditor

Versus

E-Complex Private Limited,

Survey No. 658, Village: Rampara II,
Taluka Rajula, Gujarat 363 560.

..... Corporate Debtor

Order Pronounced On:18.10.2023

Coram: Sammi Khan, Member (J)

Kaushalendra Kumar Singh, Member (T)



Appearance:

For Applicant : Mr. Saurabh Soparkar, Sr. Adv. a/w Mr. Monaal Davawala, Adv. Mr. Maulik Nanavati, Adv. (Sr. No. 117-118)

For Respondent: Ms. Hirva Dave, Adv. for Mr. Jaimin Dave, Adv.

For the CoC : Mr. Manish Bhatt, Sr. Adv. a.w. Mr. Yuvraj Thakore Adv.

For the RA : Mr. Rashesh Sanjanwala, Sr. Adv. a.w. Mr. Kunal Vaishnav Adv.

ORDER

1. The present application has been filed by the applicant **SKIL Infrastructure Limited** against the partial rejection of its claim of financial debt in the Corporate Insolvency Resolution Process (**'CIRP'**) of the corporate debtor.

2. The corporate debtor **E-Complex Pvt Ltd** was admitted in **CIRP** vide order dated 09.12.2020 in CP(IB) 563 of 2018. Following that the applicant had filed its claim amounting to Rs 37,87,42,125/- along with 16 % interest thereon. The RP has, however, admitted its claim to the extent of Rs 21,37,53,928/-.

3. The applicant is one of the group companies of **SKIL Group** which were erstwhile promoters of Reliance Naval and Engineering Limited (**'RNEL'**) (then known as Pipavav Defense & Offshore Engineering Limited) and its 100% subsidiaries including the corporate debtor.

4. As stated in the application, the applicant as a promoter of the **RNEL** (then known as Pipavav Defense & Offshore Engineering Limited) and in turn of the corporate debtor had furnished certain securities for and on behalf of the corporate debtor in respect of the financial assistance aggregating to Rs 130 crores availed by the corporate debtor from ECL Finance Limited, JM Financial Products Limited, India Infoline Finance Limited (**IIFL**), Religare Finvest Limited (hereinafter referred to as "**RFL**") and SREI Infrastructure and Finance Limited. The control over these companies **RNEL** (then known as Pipavav Defense & Offshore Engineering Limited), and its subsidiaries



(Including Corporate Debtor) had shifted to Reliance Infrastructure Limited and Reliance Defense System Private Limited (referred to as **Reliance Group**) as per the purchase agreement dated 4th March 2015. It is submitted that as per the relevant clause of the said purchase agreement, the **Reliance Group** was obliged to ensure the release of the securities furnished by the **SKIL Group** within three months upon change in management, however, that was not done and in the event of default committed by the **Reliance Group** the said lenders had invoked certain shares of **RNEL** (then known as Pipavav Defense & Offshore Engineering Limited) owned by the applicant and pledged by it as security for the loan availed of the corporate debtor. The table below reflects the break-up of its total claim of Rs 37,87,42,125/- as stated in the application:

Sr. No.	Nature of claim	Amount (in Rs.)
1.	On account of the invocation of securities by lenders of the corporate debtor	35,52,65,806
	India Infoline Finance Limited	20,29,13,924
	ECL Finance Limited	1,11,20,795
	Religare Finvest Limited	14,12,31,087
2.	On account of various remittances made by the applicant to the corporate debtor	94,89,842
3.	On account of re-imburement of expenses	1,39,86,477
	Grand Total	37,87,42,125

5. In its reply the RP has stated that he did receive a claim from the applicant on 23.02.2021 amounting to Rs 37,87,42,125/- along with 16% interest thereon, however, after verification and seeking certain clarification he admitted the claim to the extent of Rs 21,37,53,928/-. The table below reflects the details of the amount claimed and admitted/rejected by the RP in respect of the invocation of securities by the concerned financial creditors and in relation to the remittance etc.



Sr No.	Particulars	Amount Claimed	Amount Admitted	Remarks of RP
1.	Invocation of Securities by India Infoline Finance-IIFL	20,29,13,924	20,26,45,917	The amount is admitted on the basis of verification of Credit notes of IIFL submitted and as per books of accounts of Corporate Debtor. The rejected amount is Rs. 2,68,007/- only.
2.	Invocation of Securities by ECL Finance	1,11,20,795	1,11,08,011	The amount is admitted on the basis of verification of Credit notes of IIFL submitted and as per books of accounts of Corporate Debtor. The rejected amount is Rs 12,784/- only.
3.	Invocation of Securities by Religare Finvest Ltd.	14,12,31,087	-	The amount as claimed by the Applicant could not be reconciled with the Credit note of Religare Finvest Ltd, as the same were not made available, hence the amount was rejected.
4.	Claim in relation to A various remittances SKIL to ECPL between Aug-2014 to Sep-2016	94,89,842	-	The applicant was the promoter of the Corporate Debtor and various transactions were entered between the Corporate Debtor and the Applicant during that period, the nature of such transactions entered, end use of such fund transferred were not clear and not provided other than copy of Ledger extract. Hence such amount of claim was not admitted.
5.	Claim in relation to various remittances by SKIL to ECPL between June-2012 to May 2017	1,39,86,477	-	The applicant was the promoter of the Corporate Debtor and various transactions were entered between the Corporate Debtor and the Applicant during that period, the nature of such transactions entered, end use of such fund transferred were not clear and not provided other than copy of Ledger extract. Hence such amount of claim was not admitted.



	Total	37,87,42,125	21,37,53,928	
--	--------------	---------------------	---------------------	--

In its reply, the RP has also stated that the applicant is a related party of the corporate debtor and thereby could not be considered as a member financial creditor of the CoC.

6. We have heard learned counsel appearing for both sides and have also perused the relevant documents on record. It is noted that the RP has carried out due verification and sought the required clarification from the applicant. He has admitted the claim in respect of the invocation of securities by the financial creditor to the extent that could be verified on the basis of the credit notes issued by the financial creditor and submitted by the applicant to the RP. It is noted that in the context of the claim of Rs 14,12,31,087/- on account of the invocation of securities by Religare Finvest Limited (**RFL**), the applicant had not submitted any credit note issued by the Religare Finvest Limited (**RFL**) for reconciliation. The applicant was given the due opportunity to seek clarification on it. In the absence of the required clarification, the RP has rejected that claim in entirety. We also note that the applicant could not give the required clarification as regards the claim in respect of the various remittances. After having considered the entire facts of the case, we are of considered view that the decision of the RP on the partial rejection of the claim is fully justified and that cannot be faulted with. The applicant was the erstwhile promoter of **RNEL** & its 100% subsidiaries including corporate debtor and held substantial shares of **RNEL** and corporate debtor even after, the control was shifted to Reliance Group at the relevant time. Moreover, the loan was taken when the **SKIL Group** was promoter. Thus, applicants a related party of the corporate debtor and being the related party, it cannot be taken as a member of CoC. As such the various relief sought in para 4 of the application cannot be granted.

7. Accordingly, **IA 537 of 2021** stands **dismissed** and **disposed of**.

-SD-

Kaushalendra Kumar Singh
Member (Technical)
Neeraj Gupta/Steno

-SD-

Shammi Khan
Member (Judicial)