

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI, COURT – II**

**Item No. 201**  
**(IB)-1285(ND)2019**  
**IA-4943/2021**

**IN THE MATTER OF:**

**M/s. Bindals Merchandise** ... **Applicant/Petitioner**

**Versus**

**M/s. Three Platinum Softech (P) Ltd.** ... **Respondent**

**Under Section: 9 of IBC, 2016**

**Order delivered on 01.11.2021**

**CORAM:**

**SHRI. ABNI RANJAN KUMAR SINHA**  
**HON'BLE MEMBER (J)**

**SHRI L.N. GUPTA,**  
**HON'BLE MEMBER (T)**

**PRESENT:** Adv Mrinal harsh vardhan for operational creditor.

**ORDER**

**IA-4943/2021:** By filing this application, the Applicant has prayed for recalling of the order dated 07.10.2021 passed by this Tribunal.

Heard the Ld. Counsels for the Applicant as well as the Operational Creditor Mr. Mrinal Harshvardhan. None appeared for the Corporate Debtor. Ld. Counsel for the Applicant/IRP submits that the order dated 7<sup>th</sup> October, 2021 may kindly be recalled.

In the course of hearing, we have gone through the Order file and notice that the petition No. IB-1285/2019 was heard and order was reserved on 2<sup>nd</sup> August, 2019. The order in the IB Petition was pronounced and the CIRP was initiated on 7<sup>th</sup> August, 2019. Mr. Rajendra Kumar, the applicant was appointed as the IRP. We further notice that thereafter, one CA-1160/2019 was filed by the Corporate Debtor expressing its inability to settle the dispute on account of a



stay order given by the Hon'ble Apex Court in a Batch matter, in which their WP-160/2019 and WP-288/2019 were also tagged. We further observe that on 12<sup>th</sup> September, 2021, it was submitted by the Ld. Counsel for the Corporate Debtor that they have filed an application for detaching their Writ Petition as they were not a part of the Amarpali Group and they also wish to settle their claim with the Operational Creditor herein. But as it appears from the order file that thereafter no information was provided to this Bench by the Corporate Debtor. We further notice that in the order dated 24<sup>th</sup> February, 2020, it is mentioned that an Affidavit has been filed by the Respondent to bring on the record the present status of the pendency before the Hon'ble Apex Court.

On perusal of the order enclosed with the Affidavit passed by the Hon'ble Supreme court, we notice that the name of this Corporate Debtor also appears as one of the party in that matter. We further notice that the Hon'ble Supreme Court on page 17 of the said order (page 20 of the Affidavit) passed the order of stay and which is reproduced below :

***“Sh. K K Venugopal, learned Attorney General for India submits that the Corporation Bank (lead bank of consortium) is respondent no.8. As the claim has to be lodged before the National Company Law Tribunal (NCLT) by 30<sup>th</sup> November, 2018, otherwise, it would become barred by limitation, it was fairly submitted that NCLT may be requested not to proceed further without express permission of this Court in the matter to be filed. Permission to lodge claim is granted subject to the rider that NCLT shall not proceed further without specific permission of this Court.”***

We further find that vide order dated 20<sup>th</sup> February, 2020, notice was issued to the IRP as well as the Corporate Debtor to be personally present and apprise this Bench as to what steps have been taken for obtaining clarification from the



Hon'ble Apex Court in respect of further proceedings before this Bench. We observe that on the same day, one CA-1433/2020 was filed by the IRP, by way of giving the aforesaid information on which the Bench observed that the Bench is not satisfied with this report. We further notice that the IRP in its report filed as CA-1433/2020 referred to the order dated 26.09.2019, by which this Adjudicating Authority stayed the further proceeding.

We observe that thereafter, no information is given by either the Corporate Debtor or by the IRP, regarding the present status of the writ petition in the Hon'ble Supreme Court, basing on which the Corporate Debtor obtained stay from this Adjudicating Authority.

We further notice that the Corporate Debtor did not appear in spite of issuance of the notices. Therefore, we think it proper to issue bailable warrants of arrest against the Corporate Debtors. Let a bailable warrant of arrest of Rs. 1,000/- be issued against the Suspended Board of Director/ Directors of the Corporate Debtor and the Suspended Board of Director / Directors is/ are directed to appear on that date fixed and place the current status of those writ petitions pending before the Hon'ble Supreme Court. In the mean time, the Operational Creditor is also directed to file a response to the Affidavit filed by the Corporate Debtor on 24<sup>th</sup> February, 2020.

The IRP is also directed to take proper steps to ascertain the current status of the writ applications pending before the Hon'ble Supreme Court and inform this Bench. All the parties are, therefore, directed to inform whether the said writ petitions are still pending or disposed of.



Since the IRP has already appeared, therefore, we hereby stay the order dated 7<sup>th</sup> October, 2021 by which the bailable warrant of arrest was issued against the IRP and the matter was referred to the IBBI. The Registry is directed to send a copy of this order to the IBBI and the concerned police station for information and not to take any action till further order. List the matter on 23<sup>rd</sup> November, 2021.



**(L. N. GUPTA)**  
**MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)**  
**MEMBER (J)**