

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 315 of 2018

IN THE MATTER OF:

Uttam Galva Metallics Ltd.

...Appellant

Vs

State Bank of India

....Respondent

With

Company Appeal (AT) (Insolvency) No. 316 of 2018

IN THE MATTER OF:

Uttam Value Steels Ltd.

...Appellant

Vs

State Bank of India

....Respondent

Present:

For Appellant(s): Dr. A. S. Chandiook, Sr. Advocate with Ms. Henna George, Mr. Dhiraj Mhetre, Ms. Smiti Tewari, Ms. Sweta Kakkad, Mr. Angad Baxi and Mr. Kushal Bansal, Advocates.

For Respondent: Mr. Arun Kathpalia, Sr. Advocate with Ms. Ritu Bhalla, Mr. Siddhant Kant ad Mr. Vaijayant Paliwal, Advocates.

O R D E R

25.06.2018: The State Bank of India (Financial Creditor) filed two separate applications both under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code'), one against the Corporate Debtor – 'Uttam Galva Metallics Ltd.' and other against the Corporate Debtor – 'Uttam Value Steels Ltd.' for initiation of Corporate Insolvency Resolution Process against the Corporate Debtors. The applications were filed in the month of December 2017 but for one or other reason order of admission or rejection was not passed by the Adjudicating Authority who after hearing the parties on 11th June, 2016 and 15th

June, 2016 passed two separate orders to list the cases on 26th June, 2016 for pronouncement of order(s). Both the aforesaid orders are under challenge in these appeals.

2. Dr. A. S. Chandiok, learned senior counsel appearing on behalf of Corporate Debtors submits that the applications against the Corporate Debtors have not yet been admitted and it is open to the Corporate Debtors to take steps to pay the total dues to the Financial Creditors with request to withdraw both the applications as permissible under Rule 8 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. It is submitted that the Corporate Debtors have already negotiated the matter with a third party foreign investor who has agreed to invest money and to pay the amount on behalf of 'Uttam Galva Metalics Ltd.' to the tune of Rs.3231 crore and on behalf of 'Uttam Value Steels Ltd.' to the tune of Rs.2217 crore and if orders are not pronounced for another 4 weeks, the matter will be settled and the companies will be saved from the rigor of Corporate Insolvency Resolution Process. Prayer has been made to direct the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench to defer the pronouncement of orders for another 4 weeks.

3. Mr. Arun Kahtpalia, learned senior counsel appearing on behalf of State Bank of India (Financial Creditor) submitted that the matter is pending for last six months and there is no direct negotiation by any foreign investor to pay the amount. In such case, the Appellate Tribunal should not interfere with the impugned order(s). According to him the appeals are otherwise not maintainable against the impugned orders. It is further stated that the Financial Creditor has

not even informed of the name of the investor who intend to pay the dues to verify whether the stand taken by the Corporate Debtors is correct or not.

4. From the record we find that certain correspondence has been made by letters and emails, one of which reads as follows:

“We have been informed by our distinguished investor the figures of Uttam galva metallic is 3231 Cr INR, and Uttam value steel limited is 2217 Cr INR, please confirm whether these debt values are correct and suggest way forward for purchase, as our high net worth client is very interested in closing this purchase at the earliest.”

5. From the aforesaid correspondence and other records it is not clear who is the investor who intends to invest on behalf of the Corporate Debtors or intends to purchase the Corporate Debtors by paying the total outstanding dues of the Financial Creditor. In the facts and circumstances, even if it is accepted that details about investor is to be kept confidential, at this stage we are not inclined to direct the Adjudicating Authority to refrain from pronouncement of orders which otherwise were required to be pronounced within 14 days.

6. However, we make it clear that if the applications under Section 7 are admitted against one or other Corporate Debtor even then it will be open to the Corporate Debtor(s) or their promoter alongwith the proposed investor to negotiate with the Financial Creditor (State Bank of India) and settle the claim

and if such settlement is made it will be open to them to move before appropriate forum for appropriate relief.

7. Both the appeals are disposed of with aforesaid observations. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

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