

National Company Law Tribunal

Allahabad Bench

C. P No.(IB) 77/ALD/2017,

C A No. 166/2017

ATTENDANCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 14.08.2018

NAME OF THE COMPANY: IDBI Bank Vs. Jaypee Infratech

SECTION OF I & B CODE: IBC Act

CP NO. (IB) 77/ALD/2017, CA NO. 166/2017

Sh. Sanjay Bhatt alongwith Ms Honey Satpal, Advocate for the IRP, is present in the Court.

CA NO. 166/2017 has been filed by the Resolution Professional seeking exemption to the applicant to serve the notice on all the FD Holder under Regulation 19 read with Regulation 20 and further request has been made to appoint Insolvency Professional or direct the IBBI (Insolvency and Bankruptcy Board of India) to nominate the IRP, to represent the fixed deposit holder at the meeting of COC. It is stated in the application that there are 7451 fixed deposit holders of JIL, who made deposits pursuant to scheme of JIL under Section 58 (A) of the Companies Act, 1956 and out of them ,certain fixed deposit holders have also filed proceedings under the Companies Act against JIL, which are pending before this Tribunal.

Given provision of the Code, CIRP Regulations referred above the Resolution Professional is required to constitute COC comprising of all Financial Creditor. In the formation of Committee of Creditor and the representation of FD holders, resolution professional has filed this application for exemption to serve the notice on all the fixed deposit holders or alternative in the application the prayer is made that IBBI may be requested to nominate any Insolvency Resolution Professional to represent the fixed deposit holders. During the pendency of this application amendment has been made in the I & B Code, 2018 and a fresh Section 21 (6) (A) has been added in the Code, which provides that where a class of creditors exceeding the number, as may be specified, other than creditors covered under Clause (A) of Sub Section 6, the IRP

shall make an application to the Adjudication Authority alongwith the list of all Financial Creditors, containing the name of Insolvency Professional, other than the IRP, to act as their authorised representative who shall be appointed by Adjudicating Authority prior to the first meeting of COC.

Given the above amendment in the Code, this Company application has been become infructuous, therefore, rejected.

CA is disposed off accordingly.

Dated: 14.08.2018

**V.P. SINGH,
MEMBER (J)**

National Company Law Tribunal

Allahabad Bench

C. P No.(IB) 77/ALD/2017,

C A. No. 125/2018

ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 14.08.2018

NAME OF THE COMPANY: Jaypee Greens Krescent Homes Buyers Welfare Association & Ors.Vs. Jaypee Infratech

SECTION OF I & B CODE: 60(5) IBC

CP NO. (IB) 77/ALD/2017, CA NO. 125/2018

Sh. Abhinav Gaur alongwith Ankit Shukla Advocate for the Applicant and Sh. Sanjay Bhatt alongwith Ms Honey Satpal Advocate for the IRP is present.

CA NO. 125/2018 has been moved under Section 60(5) of IBC about the company petition 77/ALD/2017 IDBI Vs. Jaypee Infratech Ltd. for declaring the Home Buyers of Jaypee Greens Krescent Home Buyers Welfare Association as a Financial Creditors for CIRP.

Given the amendment of the Insolvency & Bankruptcy Code amendment 2018, Home Buyers has been in kept in the category of Financial Creditor. Therefore this application has become infructuous.

CA is dismissed as become infructuous.

Dated: 14.08.2018

**V.P. SINGH,
MEMBER (J)**

National Company Law Tribunal

Allahabad Bench

**C. P No.(IB) 77/ALD/2017,
C A. No. 143/2018**

**ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON 14.08.2018**

**NAME OF THE COMPANY: Lakshdeep Investments and Finance Pvt. Ltd. & Ors. Vs. Mr. Anuj
Jain Resolution Professional Jaypee Infratech Ltd & Ors**

SECTION OF I & B CODE: 60(5) IBC

CP NO. (IB) 77/ALD/2017, CA NO. 143/2018

Sh. Kishore Soni for the petitioner, Sh. Sanjay Bhatt alongwith Ms Honey Satpal, Advocate for the IRP and Shubham Agarwal, Advocate for the COC, is present in the Court.

CA NO. 143/2018 this company application has been filed by the Resolution/applicant (Lakshdeep Investments and Finance Pvt. Ltd. & Ors. in case of CP (IB) No. 77/ALD/2017 IDBI Bank Ltd. Vs. Jaypee Infratech Ltd. seeking direction to COC/Resolution Professional for providing the reasons for non-approval of the short listed proposal of the applicant in e-voting dated 8 and 9th May 2018, which was originally accepted by majority of COC. It is pertinent to mentioned that the Hon'ble Supreme Court in the case of Chitra Sharma Vs. Union of India in writ petition 744/2017 has passed an order wherein stated that "*A new COC should be constituted by the amended provision of the IBC to enforced the statutory status of the allottees/home buyers as Financial Creditors. We also clarify that apart from the three bidders, whose bids were found to be eligible by the IRP, it should be open to the IRP to invite bids afresh to facilitate a wider field of choice before the COC. In that process, the offers made by the interveners in this proceedings can also be considered by the COC*". Given the direction in the above mentioned writ petition it is clear that afresh committee of creditors is to be formed by the Resolution Professional and during the process of CIRP, after formation of the Committee of Creditors bids are to be invited afresh. It is further directed in the above mentioned writ petition by the Hon'ble Supreme Court that "*We permit the IRP to invite fresh*

expression of interest for the submission of Resolution plans by the applicants, in addition to the three short listed bidders whose bids, as the case maybe, revised bids may also be considered”.

Given the above directions, there is no need for taking any action on this application, and therefore, this company application has become infructuous. In the circumstances, the company application is disposed off accordingly.

Dated: 14.08.2018

**V.P. SINGH,
MEMBER (J)**