

**In the National Company Law Tribunal, Jaipur**

**IA No. 18/JPR/2018**

**IB -39(PB)/2018**

**TA No. 71/2018**

**UNDER SECTION 7 of IBC, 2016**

**In the matter of:**

**Unit Trust of India & Ors.**

**..... Applicant/Petitioners**

**VS.**

**Modern Syntax (India) Ltd.**

**.....Respondent**

**Order delivered on 20.09.2018**

**Coram: Shri R. Varadharajan, Member (Judicial)**

For Petitioner (s) : Rajeev Panday, Adv.

For Respondent(s) : Anju Jain, Adv.  
Hitesh Sachar, Adv.

**ORDER**

1. Learned counsel for the parties are present. As per the order dated 30.08.2018, the matter was fixed for final arguments on 20.09.2018 (i.e.) today. Perusal of the records of this Tribunal shows that the petition under Insolvency and Bankruptcy Code, 2016 (IBC) was filed by the Financial Creditors with the claim, the details of which have been disclosed in Part-IV of the application at Page No. 9 in relation to applicant No. 1 and at Page No. 10 in relation to applicant No. 2.



<b>APPLICANT 1- Administration of Specified</b>			
Undertaking of Unit Trust of India			
<b>17% NCD</b>			
<b>Sr.</b>	<b>Particular</b>	<b>Amount (Rs.)</b>	
<b>No.</b>			
1.	Principal	60,85,00,000.00	
2.	Simple Interest	2,09,09,41,197.00	
3.	Over Due	20,19,70,90,812.00	
4.	Penal Interest	75,38,63,029.00	
<b>Total [A]</b>		<b>23,65,03,95,038.00</b>	
<b>16% OFCD</b>			
1.	Principal	11,84,90,479.41	
2.	Simple Interest	38,66,72,740.98	
3.	Over Due	3,24,44,27,139.09	
4.	Penal Interest	16,39,69,990.47	
<b>Total [B]</b>		<b>3,91,35,60,349.97</b>	
<b>Total (A+B)[C]</b>		<b>27,56,39,55,387.97</b>	
<b>APPLICANT 2- UTI TRUSTEE COMPANY</b>			
PRIVATE LIMITED			
<b>16% OFCD</b>			

Q

1.	Principal	16,46,92,190.58
2.	Simple Interest	53,74,43,861.01
3.	Over Due	4,50,94,91,524.90
4.	Penal Interest	22,79,05,035.52
<b>Total [D]</b>		<b>5,43,95,32,612.02</b>
<b>Total (C+D)</b>		<b>33,00,34,87,999.99</b>
The statement of computation of default is reflected in Bank Statement till November 15, 2017 annexed herewith and marked as <b>Annexure- "E"</b>		

2. It is further stated that the dues have not been adjudicated in view of legal proceedings between 2000-2016 arising due to pendency of a reference made on 08.12.2000 with the case No. 399/2000 by the Corporate Debtor before BIFR under Sick Industries Companies Act and due to the said reference and extension time to time from year 2000 till 16.12.2016, the Respondent-Company/Corporate Debtor enjoyed the protection under Section 22 of SICA and in the circumstances the Financial Creditors herein was not able to enforce as against the Corporate Debtor its claim and that subsequent to coming into force of IBC, 2016 the claim has been preferred before this Tribunal seeking to invoke the Corporate Insolvency Resolution Process (CIRP) as contemplated under the provision of IBC of 2016 against the Corporate Debtor.

Q

3. The matter was first listed before this Tribunal on 05.03.2018 wherein on a representation which had been made on the behalf of the Corporate Debtor, that a fresh offer for settlement has been made to the Financial Creditor dated 03.03.2018 directions were issued in relation to the same on 05.03.2018 by the Hon'ble Principal Bench, NCLT New Delhi when the matter was pending before the said Bench at New Delhi. It is further noticed that vide order dated 27.03.2018 time was granted to Corporate Debtor to complete its pleadings, namely, to file its reply and to the Financial Creditor to file the rejoinder. When the matter was listed for arguments on 26.04.2018 before the Special Bench, NCLT New Delhi it was represented by Corporate Debtor that the talks of settlement is in progress and the same was taken note of.

4. However, it was also directed vide said order that reply of the respondent shall be filed within ten days and rejoinder required to be filed within two weeks thereafter and the matter was listed for arguments on 04.06.2018. Despite sufficient time granted to Corporate Debtor to file reply since it was not coming forth by order dated 04.06.2018, the Hon'ble Principal Bench afforded a last opportunity to Corporate Debtor to file its reply within ten days and thereafter to file the rejoinder within a week to the Financial Creditor and posted the matter for arguments on 12.07.2018. It was also noted in the said order that pendency of talks for amicable settlement shall not be a ground to non-filing of pleadings and in any case posted for hearing the matter on merits on 12.07.2018. In the meanwhile, consequent to notification No. SO 3145(E) dated 28.06.2018 issued

Q

by the Central Government the file came to be transferred to NCLT, Jaipur Bench and hence this Bench is seized of this matter.

5. Taking into consideration the several opportunities granted to the Corporate Debtor to file its reply which it had failed to do as recorded by order dated 09.08.2018, this Tribunal was constrained to close the opportunity of filing reply to the Corporate Debtor on 30.08.2018 and posted the matter for arguments to be taken up today i.e. 20.09.2018.

6. However, it is seen today, learned counsel for the Corporate Debtor has produced an order as passed by Hon'ble High Court of Judicature of Rajasthan at Jaipur Bench, Jaipur, in Civil Writ Petition No. 21159 of 2018 dated 18.09.2018 which is reproduced hereunder: -

Issue notice of the writ petition as well as stay application, returnable within one week. Notices may be given 'Dasti', if prayed. In the meanwhile, the proceedings before National Company Law Tribunal (NCLT), Jaipur in IA No. 18/JPR/2018 of IB-39(ND)/2018 (TA No. 71/2018) shall remain pending.

7. Learned counsel for the Financial Creditor represents that the said order had been passed in the absence of Financial Creditor and it is seeking to move for vacation of the said order before the Hon'ble High Court of Rajasthan. However, even though IBC, 2016, is a separate Code by itself and any party if aggrieved have recourse to appellate authority, namely, NCLT as rightly stated by learned counsel for Financial Creditor, this Tribunal in view of the above orders of the Hon'ble High Court restrains itself from proceeding further in the matter and also

Q

---

that it is represented by the parties that talks of settlement is also going on, as between the parties.

8. Taking into consideration all the above and with a view to enable learned counsel for the Financial Creditor to place the happenings before this Tribunal in continium before the Hon'ble High Court of Rajasthan for its due consideration as the Hon'ble Supreme Court has repeatedly held that IBC is a time bound process and basically brought into effect for expeditious recovery of bad debts in the interest of stakeholders, let these record of proceedings be placed on file.

Post the matter for appraisal of the proceedings in writ petition on 01.11.2018.

Mahabir Singh

A rectangular box containing a handwritten signature in dark ink. The signature appears to be 'R. Varadharajan' with a horizontal line extending from the end of the name.

**(R. Varadharajan)**  
**Member (Judicial)**