

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1224 of 2024

IN THE MATTER OF:

Vidarbha Industries Power Ltd.

...Appellants

Versus

CFM Asset Reconstruction Pvt. Ltd. & Anr.

...Respondents

WITH

Comp. App. (AT) (Ins) No. 1230 of 2024 &
I.A. No. 4086 of 2024

IN THE MATTER OF:

Vidarbha Industries Power Ltd.

...Appellants

Versus

CFM Asset Reconstruction Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Venkatesh, Mr. Sunael Buttan, Mr. Vineet Kumar and Mr. Nikunj Bhatnagar, Advocates.

For Respondents : Mr. Arun Kathpalia Sr. Advocate with Mr. Manmeet Singh, Mr. Arfrey, Ms. Bhavika Deora and Mr. Samarth Sansar, Advocates.

O R D E R
(Hybrid Mode)

12.08.2024:

CA (AT) (Ins) No. 1224 of 2024 with CA (AT) (Ins) No. 1230 of 2024

These two appeals filed by the same appellant challenging the order passed by National Company Law Tribunal, Mumbai Bench-V in IA No. 4428 of 2023 and IA No. 4450 of 2023 respectively. By the order dated 07.03.2024 in I.A. No. 4428 of 2023 Adjudicating Authority had allowed the application filed by the respondent CFM Asset Reconstruction Pvt. Ltd. and applicant was

allowed to be substituted as Financial Creditor in place of State Bank of India who has initiated Section 7 application.

2. The Ld. Counsel for the appellant submits that a writ petition being W.P. No. 2395 of 2023 has been filed in the Bombay High Court which has also been noticed by Adjudicating Authority in paragraph-9. The order dated 07.03.2024 is an order allowing the applicant to be substituted as financial creditor on basis of the assignment as mentioned in the impugned order dated 17.08.2023.

3. We do not find any error in the order passed by Adjudicating Authority allowing the substitution of the CFM Asset Reconstruction Pvt. Ltd. in place of the financial creditor there is no error in the order. Appeal is dismissed accordingly.

CA (AT) (Ins) No. 1230 of 2024

4. This appeal has been filed by the appellant challenging the order dated 07.03.2024 passed in IA No. 4450 of 2023 by which order the application filed by CFM Asset Reconstruction Pvt. Ltd. was allowed and applicant was allowed to be impleaded as Financial Creditor No.2. The Section 7 application was filed by the Axis Bank Limited and by order impugned applicant was impleaded as Respondent No.2.

5. Ld. Counsel for the appellant challenging the order submits that Section 7 application was filed by the Axis Bank only for RTL-II Facility which is mentioned in the Form-4 itself. Application having been filed only for RTL-II Facility which having assigned by the Axis Bank to the CFM Asset Reconstruction Pvt. Ltd. CFM Asset Reconstruction Ltd. at best could have

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been substituted at place of Axis Bank Ltd. but there was no occasion to permit applicant to be permitted as applicant no.2 and to continue with Axis Bank as applicant no.1. Ld. Counsel for the appellant has also referred to the order of the Bombay High Court passed in writ petition No. 2395 of 2023 which has also been noticed by Adjudicating Authority in para- 11 of the order.

6. Shri Arun Kathpalia, Ld. Counsel appearing for the respondent submits that financial creditor has no objection if CFM Asset Reconstruction Pvt. Ltd. is substituted in place of Axis Bank to prosecute the proceedings.

7. We are after having heard the counsel for the parties, are of the view that in above facts especially when the application was only for RTL-II loan which has been assigned to CFM Asset Reconstruction Pvt. Ltd. it was CFM Asset Reconstruction Pvt. Ltd. which could have been substituted in place of Axis Bank, and there was no necessity of applicant to be impleaded as applicant no.2 we are modify the order dated 07.03.2024 to the effect that CFM Asset Reconstruction Pvt. Ltd. shall be substituted in place of Axis Bank as the sole applicant to prosecute the proceedings.

With the above, the appeal is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

harleen/NN