

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II, HYDERABAD**

**I.A.No.1258/9/HDB/2024 in
C.P.(IB) No.56/9/HDB/2021**

*Under Section Rule 11 of the National
Company Law Tribunal Rules, 2016*

In the matter of :

Mr.Damavarapu Srinivas,
Ex-Executive Director of
M/s.Sri SCL Infratech Ltd.,
R/o.H.No.8-2-546/1, Road No.7,
Banjara Hills, Hyderabad – 500 034.

...Applicant

A N D

1. M/s.V.R.Constructions,
Represented by its Managing Director,
Mr.Ganta Rajasekhar Rao,
26-2-1799, Opp.Water Tank,
Vedyapalem, Nellore,
Andhra Pradesh – 524 004.

...Respondent No.1/Operational Creditor

2. M/s.Sri SCL Infratech Ltd.,
Regd Office at H.No.8-2-502/1/A,
1st Floor, Jivi Towers, Road No.7,
Banjara Hills,
Hyderabad – 500 034.

...Respondent No.2/Corporate Debtor

Date of Order: 08.11.2024

Coram:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel/Parties present:

For the Applicant : Mr.Shiv Rohan Singh, Advocate
For the Respondent : Ms.G.Sumathi, Advocate

P e r : Rajeev Bhardwaj, Member (Judicial)



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ORDER

- 1) The CP(IB) No.56/9/HDB/2021 filed under Section 9 of the IBC, 2016 by M/s.V.R.Constructions, Operational Creditor against M/s.Sri SCL Infratech Ltd, Corporate Debtor was admitted by this Authority vide order, Annexure A3 dated 18.10.2022 on the basis of the judgement, Annexure A1 dated 08.12.2017 in original suit No.83 of 2017 in *M/s.V.R.Constructions vs M/s.Srinivasa Constructions Ltd., and others* by Commercial Court-cum-Court of the Principal District Judge, Kurnool.
- 2) The present Applicant who replaced M/s.Sri SCL Infratech Ltd., challenged the judgement dated 08.12.2017 by filing Commercial Court Appeal No.7 of 2018 before the Hon'ble High Court of Andhra Pradesh and the judgement of the trial court has been set aside vide judgement, Annexure A2 dated 05.05.2023. During the pendency of the Commercial Court Appeal No.7 of 2018 before the Hon'ble High Court of Andhra Pradesh, Company Appeal No.399 of 2022 against the order dated 18.10.2022 admitting the CP No.399 of 2022 under Section 9 of IBC was filed before the Hon'ble NCLAT. After the dismissal of the Commercial Court Appeal No.7 of 2018 by the Hon'ble High Court of Andhra Pradesh, the Hon'ble NCLAT vide Annexure 3 dated 30.04.2024 disposed of Company Appeal No.399 of 2022 being infructuous.
- 3) Against the judgement, Annexure A2 dated 05.05.2023 of the Hon'ble High Court of Andhra Pradesh, the present Respondent approached the



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Hon'ble Apex Court by filing Special Leave Petition (Civil) Diary No.42353/2023, but it is still to be admitted for hearing.

- 4) On the basis of the facts, as detailed above, this Authority stayed the CIRP till further orders.
- 5) When the facts are analysed and perused in right perspective, it is apparent that the foundation on which the CIRP was initiated, i.e., the judgement, Annexure A1 dated 08.12.2017 in original suit No.83 of 2017 passed by the Commercial Court-cum-Court of the Principal District Judge, Kurnool, is no more in existence because it has already been set aside by the Hon'ble High Court of Andhra Pradesh. The operation of the judgment of the Hon'ble High Court of Andhra Pradesh has not been stayed by the Hon'ble Supreme Court and even SLP filed by the Respondent has not been admitted till date after about 1 year of filing the same. Therefore, there is no justification to keep the present CP No.56 of 2021 pending. Keeping the CIRP in abeyance may only cause hinderance in the proper functioning of the Applicant by complying with the statutory requirements of law.
- 6) The Respondent has failed to show any reason for keeping the CIRP in abeyance. Moreover, the Respondent is not going to be prejudiced because if the judgement of the Hon'ble High Court is set aside or modified by the Hon'ble Apex Court as liberty can be given to restore the CP No.56 of 2021.
- 7) In view of the facts and circumstances, we think that this is an appropriate case where the power to recall order dated 09.09.2024 can



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be exercised. Accordingly, the order dated 09.09.2024 is recalled and instead of staying the CIRP, the CP No.56 of 2021 is dismissed, subject to the condition that this CP will be restored in case the Hon'ble Supreme Court sets aside or modifies the judgement of the Hon'ble High Court of Andhra Pradesh in Commercial Court Appeal No.7 of 2018.



SANJAY PURI
MEMBER (TECHNICAL)

Vinod



RAJEEV BHARDWAJ
MEMBER (JUDICIAL)



20/11/24
Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER.....C.P.(IB) No. 56/9/HDB/2021
निर्णय का तारीख
DATE OF JUDGEMENT.....8/11/24
प्रति लेकर किशा गया तारीख
COPY MADE READY ON.....20/11/24