



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

RST.A (IBC) No. 49/MB/2024

in

CP (IB) No. 2394/MB/2019

[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 48(2) r/w Rule 11 of the National Company Law Tribunal Rules, 2016]

AUTHUM INVESTMENT & INFRASTRUCTURE LIMITED

[CIN No.: L51109MH1982PLC319008]

707, Raheja Centre

Free Press Journal Road

Nariman Point, Mumbai – 400021.

...Assignee/Applicant

V/s

RNA LIFESTYLE PRIVATE LIMITED

RNA Corporate Park

Near Collector's Office, Kalanagar

Bandra (East), Mumbai – 400051.

...Corporate Debtor

IN THE MATTER OF:

SURAKSHA ASSET RECONSTRUCTION LIMITED

[CIN No.: U74120MH2015PLC268857]

ITI House, 36, Dr. R.K. Shirodkar Road

Parel (East), Mumbai – 400012.

...Assignor/Financial Creditor

V/s

RNA LIFESTYLE PRIVATE LIMITED

...Corporate Debtor

Pronounced: 25.10.2024

CORAM:

HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)



Appearances: Hybrid

For Applicant: Adv. Shabad Jan, Adv. Turab Ali Kazmi, Adv. Utkarsh Singh, Adv.

Priyam Tiwari, Adv. Hardika Kukreja & Adv. Tanay Dubey.

For Corporate Debtor: Adv. Aniruth Purusothaman G.

ORDER

[PER: K. R. SAJI KUMAR, MEMBER (JUDICIAL)]

1. BACKGROUND

1.1 This RST.A (IBC) 49/MB/2024 has been filed in CP (IB) No. 2394/MB/2019 (Main Application) on 30.05.2024 by Authum Investment & Infrastructure Limited, the Applicant herein, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC) and Rule 48(2) r/w Rule 11 of the National Company Law Tribunal Rules, 2016 (NCLT Rules) for restoration of the Main Application which came to be dismissed for default *vide* Order of this Bench dated 14.05.2024.

1.2 The Main Application under Section 7 of the IBC for initiating Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor, i.e., RNA Lifestyle Private Limited (CD) (Respondent/CD) was filed on 03.05.2019 as the CD had allegedly defaulted in repayment of debt amounting to Rs.50,21,99,605/- (Fifty Crore Twenty-One Lakh Ninety-Nine Thousand Six Hundred Five Rupees).

1.3 The CD was sanctioned loans originally by Reliance Capital Limited, which was later demerged to Reliance Commercial Finance Limited (RCFL). On 31.03.2018, RCFL assigned the said loans in favour of



Suraksha Asset Reconstruction Limited, the original Financial Creditor (FC) that filed the Main Application.

1.4 The Main Application which was pending before Bench-III of this Tribunal was transferred to this Bench and came up for hearing for the first time before us on 19.04.2024. It was submitted that the FC further assigned the said loan to the Applicant herein (the Assignee - Authum Investment & Infrastructure Limited). However, when the matter was listed before us on 14.05.2024, there was no representation for either the FC or the Assignee and it was dismissed for default.

2. CONTENTIONS OF APPLICANT

2.1 The Assignor/FC assigned the said loans to the Assignee/Applicant *vide* Deed of Assignment dated 30.03.2024, including the facilities along with the rights, obligations, titles, and interest, forming part of adjudication before this Tribunal.

2.2 The Assignee/Applicant submits that upon uploading the 14.05.2024 order on the NCLT portal on 16.05.2024, the Counsel representing the Assignee/Applicant orally mentioned the Main Application before this Tribunal, explaining that the advocate for the Assignor/FC was absent on 14.05.2024 only because of inadvertence and the absence was purely unintentional as minor miscommunication occurred between the Assignee/Applicant and the Advocate on Record. The Assignee/Applicant did not intend to evade any appearance before this Tribunal.



2.3 Hence, the Assignee/Applicant has filed this Restoration Application to restore the Main Application.

3. CONTENTIONS OF CD

3.1 The CD submits that the Assignee/Applicant has no *locus* to file this Restoration Application under Rule 48 of NCLT Rules, 2016, and has filed it without application of mind as it suffers from material defects.

3.2 Rule 48 of NCLT Rules, 2016 is a provision for restoring the application on the consequence of the non-appearance of an applicant but, the Assignee/Applicant was not substituted as a party to the Main Application before it was dismissed on 14.05.2024, and thus, is not eligible to file the present Restoration Application.

3.3 Moreover, the Assignee/Applicant has not shown sufficient cause for his non-representation on 14.05.2024, as required under Rule 48(2) of NCLT Rules, 2016.

3.4 Hence, it is the CD's case that the Restoration Application is not maintainable and is bad in law, and thus, it should be dismissed.

4. ANALYSIS AND FINDINGS

4.1 We have heard the Ld. Counsel for the Assignee/Applicant and the Corporate Debtor.

4.2 The Main Application was dismissed on 14.05.2024 for default for non-representation of the Assignor/FC and RST.A (IBC) 49/MB/2024 was



filed on 30.05.2024, which is well within the prescribed period of thirty-days in terms of Rule 48 of NCLT Rules.

4.3 We find that the Counsel for Assignor/FC was regular in appearing before this Tribunal on earlier occasions when the matter was listed for hearing from time to time. It was just on one occasion, i.e., 14.05.2024, when the Assignor/FC was not represented before this Bench, which, as the Counsel for Assignee/Applicant argued, was a result of inadvertence as a minor miscommunication occurred between the Assignor/FC and the Advocate on Record.

4.4 According to the Counsel for the Respondent/CD, the Assignee/Applicant in this IA cannot be said to be an applicant within the meaning of Rule 48(2) of the NCLT Rules as the rule only provides for filing of an application for Restoration by an applicant in the matter. Since the assignee had not become an applicant, it was not allowed to be impleaded. However, we find that both the applications i.e., IA No. 3571/2024 for impleading and the Restoration Application were digitally filed on 30.05.2024. The IA 3571/2024 was listed on 15.07.2024 and the Restoration Application was listed on 06.08.2024. This means the IA 3571/2024 has come up before us first and the Restoration Application later. Hence, we dealt with and allowed IA 3571/2024 for impleading the Assignee/Applicant first.

4.5 Since, IA 3571/2024 for impleading the Assignee/Applicant stood allowed, and the Assignee/Applicant has become the new financial creditor in the Main Application in place of the Assignor/FC, there is no



legal impediment in allowing the restoration application. In view of the above, we hold that the Assignee/Applicant is the applicant within the meaning of Rule 48(2) of the NCLT Rules and thus, has *locus* to pray for restoration of the dismissed Main Application.

4.6 In view of the above, we are inclined to allow the Restoration Application and the Main Application is ordered to be restored on file.

ORDER

Restoration Application No. 49 of 2024 in CP (IB) No. 2394/MB/2019 stands **allowed**.

The Main Application is restored on file which will be heard and disposed of on merits.

The designated Registrar is directed to forward an electronic version of this Order to the Insolvency and Bankruptcy Board of India (IBBI) for information and record.

List the Main Application on 18.11.2024 for further consideration.

**Sd/-
SANJIV DUTT
MEMBER (TECHNICAL)**

**Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)**

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