

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No.736 of 2023

IN THE MATTER OF:

**Rita Singh
Ex-Director
Mideast Integrated Steels Ltd.**

...Appellant

Versus

**Atul Kumar Kansal
IRP Of Mideast Integrated Steels Ltd. & Anr.**

...Respondents

Present:

For Appellant: Mr. Krishnendu Datta, Sr. Advocate.

**For Respondents: Mr. Swapnil Gupta, Mr. Vaibhav Mendiratta,
Advocates for IRP**

**Mr. Amit Agarwal, Mr. Swetabh Sinha, Mr. Sidhant
Pandita, Ms. Vatsala Pandey, Advocates for R-2.**

**Mr. N. Ganpathy, Sr. Advocate with Mr. Abhijeet
Sinha, Mr. Manpreet Lamba, Mr. Sanampreet
Singh, Ms. Shivani Sharma, Advocates for
Intervener**

**Mr. Bhanu Gupta, Ms. Dacchita Shahi and Mr.
Utkarsh Kandpal, Advocates for Applicant in IA
3335 of 2023.**

O R D E R

08.11.2023: Heard learned counsel for the Appellant and learned counsel for the Financial Creditor as well as learned counsel for the Intervenor. This Appeal has been filed against the order passed by the Adjudicating Authority dated 24.05.2023 admitting Section 7 application filed by the Financial Creditor. The Financial Creditor, which is namely 'Silver Bank Limited' is a Foreign Bank which has disbursed a loan of USD 2,500,000 to the Corporate Debtor under loan agreement dated 16.12.2014 and two other

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loan agreements for expansion of their plant in Orissa, which has been noted in Para 1 of the impugned order. On default being committed, Section 7 application was filed by the Financial Creditor which came to be admitted by the impugned order. This appeal has been filed challenging the said order.

2. When the Appeal was taken up on the 31.05.2023, following order was passed by this Tribunal:

“O R D E R

31.05.2023: *Learned Counsel for the Appellant submits that the Application under Section 7 of I&B Code, 2016 was filed by the Financial Creditor for an amount of Rs. 12,96,95,768/- plus interest at the conversion rate 77.55 as on 17th May, 2022 along with interest and penalty. He submits that Appellant is ready to deposit the entire amount and he has bank draft of Rs. 14 Crores ready drawn in the name of Respondent.*

2. Learned Counsel for the Respondent submits that Respondent does not have any Bank Account in India and amount should be transmitted to the Oversea Account.

3. Learned Counsel for the Appellant submits that for transmitting the amount oversea, permission of Reserve Bank of India is required.

4. Let the Appellant seek appropriate permission for transferring the amount oversea which may be agreed between the parties. Bank Draft drawn in the name of

Respondent may be deposited with the Registrar of this Tribunal and Appellant is permitted to file appropriate Application if consensus is reached to find out ways and means for transmitting the amount oversea.

5. List this Appeal on 21st July, 2023. In the meantime, Impugned Order dated 24th May, 2023 shall remain stayed. Respondents appearing through counsel are allowed to file Reply/Application, if any, before the date fixed.”

3. Subsequently, on 25.07.2023, on statement of the Appellant following order was passed:

“O R D E R

25.07.2023: *Learned counsel for the Appellant submitted that parties have finalized the amount to be paid to Financial Creditor i.e. USD 2035391. Both the parties agree that in terms of the appropriate procedure the aforesaid amount shall be remitted to the Respondent No.2.*

Learned counsel for the Appellant submits that the amount deposited under order dated 31.05.2023 be refunded to the Appellant to utilize it for the purposes of remittance.

Let the amount deposited by the Appellant under order dated 31.05.2023 be refunded to the Appellant for doing the needful.

*List this Appeal after four weeks on **11.09.2023.***

Learned counsel for the Intervener seeks liberty and is allowed to file physical copy of the Intervention Application within three days.

Interim orders to continue.”

4. On 02.11.2023, before this Tribunal the Financial Creditor made statement that he has received the payment and intend to withdraw the Section 7 Petition. We permitted the Financial Creditor to file an Affidavit to aforesaid effect.

5. An Affidavit has been filed by the Financial Creditor dated 06.11.2023, where in Para 2, 3 and 4 following averments have been made:

“2. That the captioned Appeal was filed impugning the order dated 24.05.2023 (for short the “Impugned Order”) passed by the Ld. Adjudicating Authority, National Company Law Tribunal, New Delhi, Bench-VI (for short “Ld. AA”) in C.P. (IB) No. 421 of 2022 (for short the “said petition”) filed under Section-7 of the Insolvency and Bankruptcy Code by the Financial Creditor i.e. the Respondent No. 2 herein, Silver Bank Limited. The Hon'ble Appellate Tribunal was pleased to stay the impugned order dated 24.05.2023 on the ground that the Corporate Debtor/Appellant were willing to pay the entire debt amount to the Respondent No.2/Financial Creditor.

3. I state that subsequently in the month of October, the debt of the Respondent No. 2/Financial Creditor has been realized through an assignment of debt. The Respondent No. 2 / Financial creditor

confirms that no monies remain payable by the Corporate Debtor.

4. That, in view of the above, I state that the Respondent No.2/Financial Creditor has no claims against the Corporate Debtor/Appellant and accordingly the Respondent No.2/Financial Creditor does not wish to pursue the section 7 Petition being C.P. (IB) No. 421 of 2022 in any form whatsoever as was originally instituted by the Respondent No.2/Financial Creditor against the Corporate Debtor/Appellant before the Ld. Adjudicating Authority, National Company Law Tribunal, New Delhi.”

6. Learned counsel for the Appellant submits that the Financial Creditor himself has come up in this Appeal that they want to withdraw the application, therefore, the CIRP against the Corporate Debtor may not be allowed to continue any further.

7. Learned counsel for the Intervenor opposing the submission of the Appellant as well as Financial Creditor submits that according to the affidavit which has been filed by the Financial Creditor it appears that the debt has been assigned. It is submitted that said assignment is not in accordance of the Guidelines of RBI. Learned counsel for the Intervenor has referred to “Master Direction – External Commercial Borrowings, Trade Credits and Structured Obligations” dated 26.03.2019. Learned counsel for the Intervenor submitted that Internenor has an Arbitration Award against the Corporate Debtor of an amount of Rs.1096 Crore.

8. Learned counsel for the Appellant submits that the Award is under challenge in proceedings under Section 34 of the Arbitration and Reconciliation Act and pending in Hon'ble Bombay High Court.

9. Looking to the facts and sequence of events, especially the Affidavit filed by the Financial Creditor, who has realised its debt and want to withdraw Section 7 application, we are of the view that proceedings under Section 7 cannot be allowed to continue any further. We, thus, close the CIRP process. However, at the same time, we make it clear that with regard to transaction under which the Financial Creditor has claimed to have satisfied his debt, we make no observation and appropriate authority may take the cognizance of the same, if they so desire. We are further of the view that the Operational Creditors are fully entitled to pursue their claims against the Corporate Debtor, in accordance with law including proceedings under I&B Code.

10. We make it clear that we are not expressing any opinion on the transaction through which the Financial Creditor has realized his debt.

11. With these observations this Appeal as well as I.As are disposed of.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

Archana/nn