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**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

IA 51 of 2018 in C.P. (I.B) No. 172/7/NCLT/AHM/2017

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 19.02.2018**

Name of the Company: Reliance Naval and Engineering Ltd.
V/s.
IFCI Ltd.

Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy
Code r/w Rule 32 of NCLT Rules.

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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2.

ORDER

None present for Applicant. None present for Respondents in IA 51/2018.

Order in IA 51 of 2018 pronounced in open Court. Vide separate sheets.


**MANORAMA KUMARI
MEMBER JUDICIAL**


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 19th day of February, 2018.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

I.A. No. 51 of 2018

In

CP(IB) No.172/7/NCLT/AHM/2017

In the matter of :-

Reliance Naval and Engineering Limited
(Formerly Reliance Defence and
Engineering Limited)
Port of Pipavav, Post Ucchaiya,
Via. Rajula, Dist. Amreli-365560,
Gujarat.

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Applicant
(Corporate Debtor)

Versus

IFCI Limited,
Having its office at :
Earnest House,
9th Floor, NCPA Marg,
Nariman Point,
Mumbai – 400 021.

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Respondent
(Financial Creditor)

Order delivered on 19th February, 2017

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)
And
Hon'ble Ms. Manorama Kumari, Member (J)

Appearance:

Mr. Saurabh Soparkar, Senior Advocate, with Mr. Nandish Chudgar for M/s Nanavati Associates, Advocates for the Applicant.

Mr. P.V. Dinesh with Mr. Vishal Raval, Advocates for the Respondent.

ORDER

[per: Hon'ble Sri Bikki Raveendra Babu, Member (J)]

1. Reliance Naval and Engineering Limited/Corporate Debtor has filed this application with a request to keep Company Petition (IB) No.172 of 2017 filed by IFCI Limited/Financial Creditor in abeyance till the Honourable National Company Law

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Appellate Tribunal passes appropriate order in Company Appeal (AT)(Insolvency) No.40 of 2018.

2. For the disposal of this application, the following facts are necessary :-

3. IFCI Limited filed CP(IB) No.171 of 2017 against Reliance Marine and Offshore Limited, styling it as Corporate Debtor/Principal Borrower, under Section 7 of the Insolvency and Bankruptcy Code, 2017 ("IB Code") to trigger Insolvency Resolution Process. IFCI Limited also filed Company Petition (IB) No.172 of 2017, styling itself as Financial Creditor, under Section 7 of the IB Code against Reliance Naval and Engineering Limited, styling it as Corporate Debtor/Corporate Guarantor.

4. In CP(B) No.171 of 2017, Reliance Marine and Offshore Limited requested for adjournment on the ground that proceedings against the Principal Borrower and the proceedings against the Corporate Guarantor, Reliance Naval and Engineering Limited, vide CP(IB) No.172 of 2017, shall go on simultaneously. The said request made by Reliance Marine and Offshore Limited was rejected by this Authority on the ground that the proceedings against the Principal Borrower and the Corporate Guarantor in two separate Petitions need not be simultaneously decided. Reliance Marine and Offshore Limited carried the order of this Authority dated 18th January, 2018 in



appeal to the Honourable National Company Law Appellate Tribunal, New Delhi, vide Company Appeal (AT)(Insolvency) No.40 of 2018. The Honourable NCALT, in the said Appeal, passed the following order :-

"01.02.2018 – It is informed that a petition under Section 7 of the 'Insolvency and Bankruptcy Code, 2016' has been filed by the 'Financial Creditor' both against the 'Principal borrower' and the 'Corporate Guarantor'. Similar question is pending for consideration before this Appellate Tribunal.

Issue notice. Mr. Rajendra Beniwal, Advocate accepts notice on behalf of Respondent ('IFCI Limited'). No further notice need be issued. Learned counsel for the Appellant will serve a copy of the paper book on the learned counsel for the Respondent in course of the day. Respondent may file reply along with vakalatnama of the Counsel within a week. Rejoinder, if any may be filed by appellant within a week thereof.

Post the matter on 20th February, 2018.

During the pendency of the appeal, if any order is passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, the same shall be subject to the decision of this appeal."

5. Basing on the ground that Company Appeal No.40 of 2018 is pending before the Honourable Appellate Tribunal, Reliance Naval and Engineering Limited is seeking postponement of the proceedings in CP(IB) No.172 of 2017.

6. During the course of arguments in this application, the learned Senior Counsel appearing for the Applicant-Reliance Naval and Engineering Limited contended that the issue whether Corporate Insolvency Resolution Process can be initiated by the

Beniwal

[Signature]

same Financial Creditor against the Principal Borrower and the Corporate Guarantor simultaneously for the same debt is pending for adjudication before the Honourable National Company Law Appellate Tribunal as can be noticed from the order of NCLAT dated 01.02.2018 in Company Appeal (AT)(Insolvency) No.40 of 2018 and the said appeal stands posted to 20th February, 2018.

7. Learned counsel for IFCI Limited contended that the order of the Honourable NCLAT dated 01.02.2018 made in Company Appeal No.40 of 2018 clearly allowed this Tribunal to proceed further with the proceedings against the Principal Borrower. But any order passed by this Authority in the said proceedings is subject to the decision of the appeal and, therefore, there is no difficulty in proceeding with and passing orders either in CP (IB) No.171 of 2017 or in CP (IB) No.172 of 2017.

8. It is pertinent to mention here that CP(IB) No.171 of 2017 is reserved for orders. This Adjudicating Authority in the order dated 18.01.2018 clearly held that the proceedings against the Principal Borrower and the proceedings against the Corporate Guarantor are two different proceedings and there is no need to simultaneously hear the matters and pronounce orders simultaneously.


9. Coming to the issue whether a same Financial Creditor can proceed against the Principal Borrower and the Corporate Guarantor at a time for initiation of Corporate Insolvency

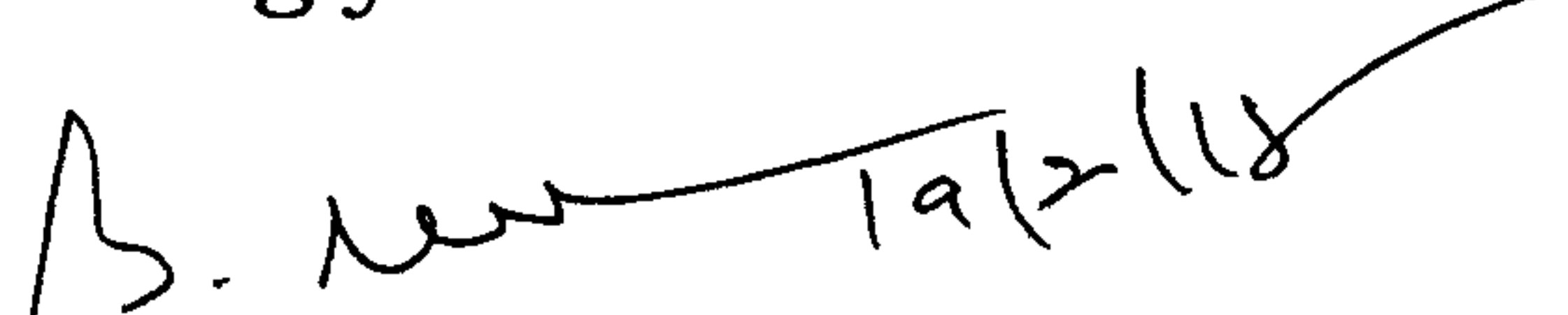
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Resolution Process in respect of the same debt is a debt is a matter which can be argued before this Authority and invite a decision. More so, even according to the Applicant, the said issue is pending before the Honourable NCLAT in another matter, but not in Company Appeal No.40 of 2018. Company Appeal No.40 of 2018 arises out of the order dated 18.01.2018 by this Authority in CP(IB) No.171 of 2017, which is filed against the Principal Borrower, rejecting the request for simultaneous hearing and disposal of proceedings against the Principal Borrower and the Corporate Guarantor for the same debt by the same Financial Creditor. Therefore, the issue that is pending in Company Appeal No.40 of 2018 is whether there is any need for simultaneous hearing of the proceedings against the Principal Borrower and the Corporate Guarantor or not. Whatever the issue that may be pending before the Honourable Appellate Tribunal, there is no stay granted by the Honourable Appellate Tribunal restraining further proceedings either in CP(IB) No.171 of 2017 or in CP(B) No.172 of 2017. Moreover, the Appellate Tribunal clearly observed that any order passed by this Authority is subject to decision of the Appeal. Therefore, there is no need to adjourn CP (IB) No.172 of 2017 till the disposal of Company Appeal No.40 of 2018 pending before the Honourable NCLAT.

10. This application is disposed of accordingly.


(Ms. Manorama Kumari)
Member (J) &
Adjudicating Authority


(Bikki Raveendra Babu)
Member (J) &
Adjudicating Authority