

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 101
(IB)-190(PB)/2017

IN THE MATTER OF:

Union Bank of India

.... Applicant/petitioner

Vs.

Era Infra Engineering Ltd.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, CIRP

Order delivered on 07.12.2018

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENTS

For the Petitioner

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For the Respondent:

Mr. Atul Sharma, Mr. Abhishek Sharma & Mr.
Raunak Singh, Advs.

For the Claimant

Ms. Gunjan Sharma, Adv.

For the Steel Authority
of India

Ms. Anjali Sharma, Adv.

Mr. Deepak Bastha, Adv.

ORDER

CA-1224(PB)/2018

On 05.12.2018 we have passed an order recording the request of the Ld. Counsel for resolution professional seeking three days time to take instructions with regard to controversy raised in this application. The petition under section 7, IBC was admitted on 08.05.2018 and we have imposed moratorium in terms of Section 14. However the Arbitral Tribunal in its order dated 24.09.2018 has observed as under:-

“The counter-claim of the Respondent is against the claimant, thus it attracts the provision of the Section 14(i)(a) and thus it cannot be continued. The Counter-claim is an independent

claim and can be adjudicated separately. Therefore, it has to be abated under section 14(i)(a) of the IBC. The Respondent may approach the appropriate authority regarding this and thus application for staying the proceedings is dismissed.”

Mr. Sharma Ld. Counsel for the RP after obtaining instructions has stated that in terms of the judgment dated 03.08.2018 rendered by the National Company Appellate Law Tribunal in Company Appeal (AT) (Insolvency) No. 285/2018 both the claim and the counter claim of the parties might be heard together by the Arbitral Tribunal as there is no bar under the Insolvency Bankruptcy Code, 2016. Ld. Counsel further states that on determination if it is found that the corporate debtor is liable to pay any amount then no recovery may be made during the period of moratorium. According to Mr. Sharma, this concession has been made without prejudice to any rights of the corporate debtor in any manner what so ever.

We disposed of the application in terms of the statement made by Mr. Sharma, Ld. Counsel for the RP and request Ld. Arbitral Tribunal to proceed in accordance with the statement made by Mr. Sharma. The Arbitral Tribunal may proceed with both the claim and the counter claim but no recovery be effected from the corporate debtor.

CA-1224(PB)/2018 stands disposed of.

Sd-

(M.M.KUMAR)
PRESIDENT

Sd-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)