

DIVISION BENCH

O-106

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1400(KB)2018
IA/606(KB)2020, IA/1277(KB)2020,
IA/1278(KB)2020, IA/556(KB)2021

**Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.
2. Hon'ble Member(T), Shri Harish Chander Suri**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 16th July, 2021, 10:30
A.M**

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|---------------------|---|------------------------|---------------------|
| Name of the Company | STRESSED ASSETS STABILIZATION FUND Vs. ISPAT PROFILES INDIA LIMITED | | |
| Under Section | IBC under Sec 7 (CIRP) | | |
| Sl. No. | Name & Designation of Authorized Representative (IN CAPITAL LETTERS) | Appearing on behalf of | Signature with date |

Appearance (via video conference)

For the resolution professional/ applicant

Ms. Anshumala Bansal, Advocate
Mr. Rajiv Kumar Agarwal, RP

Respondent (BSNL, Pune) in IA/660(KB)2020

Mr. V.C.Lolage , Advocate
Mr. Subrata Paul, Advocate

IA 1171 of 2020 and IA 1277 of 2020, For the Suspended board of Directors (Respondent Nos 1 and 4):

Mr. Jishnu Chowdhury, Advocate
Ms. Rashmi Bothra, Advocate

ORDER

Ms. Anshumala Bansal, Ld. Counsel for the Resolution Professional and Mr. Rajiv Kumar Agarwal, the Resolution Professional present. Mr. V.C. Lolage along with Mr. Subrata Paul, Ld. Counsel for respondent (BSNL, Pune) present. Mr. Jishnu Chowdhury along with Ms. Rashmi Bothra, Ld. Counsel for the suspended board of Directors present.

IA/556(KB)2021- This is an application filed by the RP for exclusion of 190 days of CIRP period. It is submitted by the RP that vide order dated 19th November 2020, this Adjudicating Authority allowed a prospective resolution applicant to participate in the CIRP which was subsequently challenged by another resolution applicant before Hon'ble NCLAT. The Hon'ble NCLAT vide order dated 14th December 2020 and 15th December 2020 directed the CoC not to take a final decision in regard to approval of the resolution plan. The said appeal was withdrawn on 16th April 2021 and the said order was uploaded on 27th May 2021. The CIRP period has expired on 2nd March 2021. Thus, the RP seeks exclusion of 190 days i.e. from 19th November 2020 to 27th May 2021 from the CIRP period as time taken in legal proceedings delayed the CIRP process.

We are satisfied that the CIRP period should be excluded. We hereby order exclusion of 190 days i.e. from 19th November 2020 to 27th May 2021 from the CIRP period. The CIRP period shall now expire on 8th September 2021.

IA/660(KB)2020- List this application on 23.08.2021.

IA/1277(KB)2020- List this application for arguments on 23.08.2021.

IA/1278(KB)2020- This is an application filed by the Resolution Professional against the Deputy Commissioner of State Tax, Pune Division, Maharashtra seeking direction to release the lien of the property which have been attached by the respondent.

In this matter, Court notice was ordered on 07.12.2020 and the matter was posted to 21.01.2021. Directions were also given to the Deputy Commissioner of State Tax to file reply to the application within a period of two weeks from that date. There was no representation on the part of the respondent on 21.01.2021. The matter was posted to 19.02.2021 for further consideration, after directions were once again given to the respondent to file its reply. On

17.02.2021, this Adjudicating Authority received an email from one Mr. M.A. Malavade, Deputy Commissioner of State Tax, PUN-BST-E-002, Cabin No. 117, 1st Floor, GST Bhavan, Air Port Road, Yerawada, Pune-411006, Maharashtra forwarding therewith para wise comments in respect of IA/1278(KB)2020. It was also requested that an opportunity be granted for hearing if the Bench is going to pass any adverse order. The documents have also been attached which were in Marathi without providing an authenticated translation thereof in English. The matter was taken up for consideration on 19.02.2021 when this Bench observed that two opportunities had already been granted to the respondent to file its reply in the matter. However, except the para wise comments received by an email dated 17.02.2021, there is no reply filed in the matter. In the interest of justice, one more opportunity is granted to engage suitable legal representation in the matter to file reply in the matter as part of the respondent. It was also made clear that on the said order dated 19.02.2021 that no further opportunity will be granted in the matter. The matter was posted on 22.03.2021 for hearing and disposal. But on 22.03.2021 again there was no representation in the matter on the part of the respondent. Thereafter the matter was posted for final hearing on 06.05.2021. Due to intervening directions passed that only urgent matter be taken up for hearing the matter was not heard on 06.05.2021 and is taken up for consideration today. Today again there is no representation on the part of the respondent.

Ld. Counsel appearing for the RP submits that the Deputy Commissioner of State Tax has already submitted its claim which is also been collated by the RP. In these circumstances, no valid ground exists on continuation of lien on the properties of the Corporate Debtor. In any case, the provisions of the I & B Code, 2016 have overriding effect over other laws in case of an inconsistency. In this view, directions are issued to the Deputy Commissioner of State to release lien on the marked property within a period of 10 days and submit a compliance affidavit in this regard.

Registry is directed to communicate copy of today's order to the Deputy Commissioner State Tax for immediate compliance. List the matter on 23.08.2021.

(Harish Chander Suri)
Member (Technical)

(Rajasekhar V.K.)
Member (Judicial)