

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

IA 562 of 2020 in IA 782 of 2019 in CP(IB) 172/NCLT/AHM/2018

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 09.09.2020**

Name of the Company: Jaihind Projects Ltd & Anr
V/s
Parthiv Parikh RP of Jaihind Projects Ltd
& Ors
Section : 60(5) IBC r.w Rule 11 of NCLT rules,2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.

2.

ORDER

Sr. Advocate, Mr. Mihir Thakore with Advocate, Mr. Salil M Thakore appeared on behalf of the Applicant.

The instant application is filed by the Applicant with a prayer to pass an appropriate order staying the execution/implementation of settlement agreement dated 20.02.2020, entered between Respondent No. 1, the erstwhile RP of Jaihind Projects Ltd. and Respondent No. 2, Vedanta Ltd., amongst all other prayers. It is submitted that the erstwhile RP has entered into agreement on 20.02.2020, during the pendency of approval of the Resolution Plan which was filed on 24.09.2019.

It is pertinent to mention herein that till the approval of the Resolution Plan and/or passing of liquidation order by this Adjudicating Authority, the Company is deemed to be under CIRP and It is a matter of record that the plan was approved on 19.03.2020. Therefore, Section 14 of the IB Code provides that any proceedings, suits against the Corporate Debtor including execution of any judgment, decree or order in any Court of law, tribunal, arbitration shall remain under moratorium.



Under such circumstances, if there is any arbitration proceeding is going on, that will remain in abeyance till the CIRP is over. Hence, it is not expected from the RP that without the approval of the COC or approval of this Adjudicating Authority, when the Resolution Plan is pending, RP can enter into any agreement.

The Applicant further submitted that the Respondent No. 2 has produced the settlement agreement on 20.02.2020 before the Arbitral Tribunal and claiming that award may be passed based on this settlement agreement.

Now there is every apprehension that, if the Arbitral Tribunal will pass any award based on this settlement agreement, in that event the Applicant will be prejudiced as it will cause irreparable loss to the Applicant. That apart, it may create multiplicity of proceedings. Hence, seeking for some restrain order on the execution and/or passing of any award based on the settlement agreement dated 20.02.2020.

Gone through the application and the documents annexed therein. Heard the learned counsel for the Applicant. It is found that the RP has entered into settlement agreement during the pendency of Resolution Plan filed on 24.09.2019, without the knowledge of COC and/or Resolution Applicant, whose plan was, by that time, already approved by the COC and filed before the Adjudicating Authority for further sanction.

Under such circumstances, if no restrain order is passed on the said settlement agreement, in that event the applicant will be highly prejudiced for such act of the RP, who has without the knowledge of the COC entered with the agreement on 20.02.2020.

Therefore, this Adjudicating Authority passes a restrain order upon the Respondent No. 2 not to act upon the settlement agreement entered between Vedanta Ltd. and Jaihind Projects Ltd. (then Suspended Management) represented by then RP, which was entered without the knowledge of Committee of Creditors and/or without apprising to the Adjudicating Authority, when the Resolution Plan is pending for disposal, till further order.

The Applicant as well as the Registry is directed to issue notice to the Respondent.

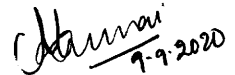
On receipt of the notice the Respondent has liberty to file their reply, if any, within two weeks' by serving an advance copy to the other side.

List the matter on 06.10.2020



CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 09th day of September, 2020



MANORAMA KUMARI
MEMBER JUDICIAL