

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

Dy.No.529/2017

Under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating) Authority) Rules 2016.

In the matter of:

Srei Infrastructure Finance Ltd.

... Petitioner

-Versus-

M/s Assam Company India Ltd.

... Respondent

Coram:

Hon'ble Mr Justice P K Saikia, Member(J)

.....

ORDER

Date of Order: 13th October 2017

Mr R.N. Ghosh & Mr R. Sarmah, learned Advocates are present on behalf of the applicant/Financial Creditor. Mr A. Gaggar & Mr D. Choudhury, learned Advocates are also present representing the respondent/Corporate Debtor.

2. This Tribunal, on the last occasion, i.e. 15.09.2017, on hearing both the parties having regard to the decision of Hon'ble Calcutta High Court in the case of ***Sree Metaliks Limited & Ors. vs. Union of India & Ors, reported in (2017) 203 Comp Cas 442 (Cal)*** as well as the decision of the Hon'ble National Company Law Appellate Tribunal in the case of ***M/s Starlog Enterprises Limited Vs. ICICI Bank Limited, Company Appeal (AT) (Insolvency) No.5 of 2017***, was pleased to direct the respondent/Corporate Debtor to file reply to the petition under Section 7 of the Code of 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules 2016 with further direction to supply simultaneously copies thereof to the applicant for filing of rejoinder, if any, by the applicant.

For ready reference, the direction rendered by this Tribunal in its order dated 15.09.2017 is reproduced below:

*"On hearing the parties having regard to the decision of the Hon'ble Calcutta High Court in **Sree Metaliks Limited** (supra) as well as the decision of NCLAT in **M/s Starlog Enterprises Limited** (supra), I am of the opinion that the Corporate Debtor is required to be given an opportunity to file written objection against the initiation of corporate insolvency resolution process within a period of 7 days from today supplying simultaneously copy thereof to the applicant.*

"On receipt of the reply, the Financial Creditor may, if so advised, file rejoinder thereto supplying simultaneously copy thereof to the Corporate Debtor."

3. The learned counsel for the parties submit that as required they have exchanged their pleadings in the meantime. Mr A. Gaggar, learned Advocate for the respondent, submits that the leading Advocate for the respondent in this proceeding, namely, Mr A. Mitra, Sr. Advocate could not be present before this Bench today since he is out of the country.

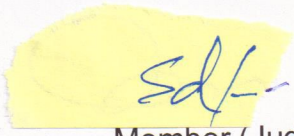
4. But, according to Mr A. Gaggar, his presence is necessary in order to canvass the case of the respondent properly, more particularly, to show that there are some serious infirmities in the frame-up of the application as well as to show that the amount which is reportedly said to be debt due to the financial creditor is unacceptable since the Financial Creditor had shown different amounts at different places as debt due to the latter. He, therefore, prayed for adjournment of this proceeding till 25.10.2017.

5. The aforesaid submission of Mr Gaggar was, however, objected to by the learned Advocate for the applicant/Financial Creditor stating that the Code of 2016 and the rules framed thereunder have given a definite time limit for initiation, admission etc. and such time limit needs to be adhered to strictly.

6. In that connection, learned Advocate for the applicant/Financial Creditor has drawn my attention to the decision of the Hon'ble Supreme Court in **Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited, MANU/SC/1196/2017** to contend that the time limit of 14 days for the adjudicating authority to admit or reject the proceeding is something which this Bench cannot flout at all. He, therefore, urges this Bench to hear the matter today itself and pass necessary orders.

7. I have considered the rival submissions having regard to the materials on record. It is a settled law that the absence of the Advocate cannot be a ground for adjourning the case. However, having regard to the submissions, advanced and the decision relied on by the parties, I am of the opinion that this case is required to be posted on 17.10.2017 for hearing in the matter of admission.

8. It is made clear that no further adjournment shall be granted under any circumstance.


Member (Judicial)
National Company Law Tribunal,
Guwahati Bench, Guwahati.

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