

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, AT HYDERABAD**

CA 124/2017
IN

CP (IB) No. 01/HDB/2017

IN THE MATTER

Edelweiss Asset Reconstruction Company Limited
Acting in its capacity as trustee of EARC Trust SC 23
Having its office at Edelweiss House, Off CST Road,
Kalina, Mumbai 400 098Applicant / Financial Creditor

Versus

1. Ms. Mamta Binani
Interim Resolution Professional
Synergies-Dooray Automative Limited
(under Insolvency Resolution Process)
Room No. 6, 4th Floor, Commerce House,
2A, Ganesh Chandra Avenue,
Kolkata 700 013 West Bengal
2. Synergies-Dooray Automative Limited
(under Insolvency Resolution Process)
through Mrs. Mamta Binani,
Interim Resolution Professional
6-3-855/10A, Sampathji Appts,
Saadat Manzil, Ameerpet,
Hyderabad — 500038
3. Synergies Casting Limited
Flat No. 4A, Sampathji Aprts,
6-3-855/10/A, Saadat Manzil,
Ameerpet, Hyderabad, 500 016
4. Millennium Finance Limited
Having its registered office at
402, 4th Floor, MGR Estate,
Punjagutta, Hyderabad, 500 082
5. Alchemist ARC
Having its registered office at
D-54, First Floor, Defence Colony,
New Delhi, 110024

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

.....Respondents



Date of order: 02.08.2017

CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Membher (Technical)

Parties present

Counsels for the Applicant:	Shri S. Niranjan Reddy, Senior Advocate Ms Jyoti Singh, Advocate Ms. Rubaina Khatoon, Advocate Shri P. Mohith Reddy, Advocate
Counsel for R.No.2	Shri A.D. Gupta, Advocate
Counsel for R. No.3	Shri S.Chidambaram, PCS
Counsel for R. No.4	Shri Deepak Bhattacharjee, Senior Advocate along with Shri Dishit Bhattacharjee, Advocate
Counsel for R. No.1	Ms. Mamta Binani, Resolution Professional

Per: Rajeswara Rao Vittanala, Member (J)



ORDER

1. The present Company application bearing CA No. 124 of 2017 in CP(IB) No 01/HDB2017 is filed by Edelweiss Asset Reconstruction Company Limited, the applicant/Financial Creditor, under Section 60(5)(C) of IBC, 2016 ,R/w Rules, 14 and 34 of NCLT Rules, 2016 by inter-alia seeking to declare all the decisions taken by the Committee of Creditors at the second meeting held on June, 24nd 2017, as invalid and consequently set aside and quash all the Resolutions passed in the said meeting including the approval of the resolution plan submitted by Respondent No. 3 etc.
2. Heard Shri S. Niranjan Reddy, Learned Senior Counsel along with Ms. Jyoti Singh, Ms. Rubaina S. Khatoon and Shri Mohith Reddy, Learned Counsels for the Petitioner and Shri Deepak Bhattacharjee, Learned Senior Counsel along with Shri Dishit

Bhattacharjee, Shri S. Chidambaram, PCS, Shri A.D. Gupta, , Ms. Mamta Binani, Insolvency Resolution Professional along with Shri Nitish Bandary and Shri Krishnenda Datta, Learned Counsels for the Respondents.

3. It is stated that SCL (Respondent No.3) is a sister concern and related party of the Corporate Debtor and it is a lessee of Corporate Debtor, who has submitted Insolvency Resolution Plan in the instant case.
4. The Respondent No.4 (MFL) became a financial creditor of Corporate Debtor by way of three alleged assignment agreements dated 24.11.2016 which were executed between Respondents No. 3 & 4. These agreements were challenged in CA No. 57/2017.
5. It is stated that the Applicant received an email dated 17.06.2017, which was accompanied by Resolution Plans by three Resolution Applicants viz. Respondent no.3, SMB Ashes Industries and another Suiyas Industries Private Limited. On perusing the Resolution Plan submitted by R.3, it is found that no consideration has been paid by the Respondent No. 4 to Respondent No. 3. There are several allegations made against the Resolution Plan submitted by R.3.They have mainly questioned the assignment agreements on various grounds.
6. It is further alleged that the Respondent No.1 has refused to enter into inter-se controversies of the allegations made by the Corporate Debtor. They have also raised several objections to the Resolution Plan submitted by R.3.
7. It is stated that inspite of several objections raised by the Applicant, the Resolution Plan submitted by R.3 has declared as Approved by R.1. They have again raised the legality of the assignment agreements in question, which goes to the root of the issue.
8. The Applicants alleged that several crucial documents were missing, when they inspected the documents sought by them. The Applicant also made several allegations against R.1 in



conducting Resolution Process and she is not treating all creditors impartially and fairly, therefore the applicants prays to declare the decisions taken by the CoC held on 24.6.2017 as invalid.

9. We have considered all the contentions raised by the Applicant herein which are more or less similar in nature. All the fundamental issues raised by the Applicant especially with regard to the three assignment agreements dated 24.11.2016, related party, considerations etc, we have passed separate orders in CA No. 43 and 57 of 2017 by adverting to fundamental objections raised by the Applicants herein. Subsequently, the Tribunal approved the Resolution Plan in question by separate orders dated 2.8.2017 passed in CA No. 123/2017. Therefore, nothing remains for consideration in this case and thus, the Application itself becomes infructuous.

10. In the result, the Company Application bearing C.A. No. 124 of 2017 IN CP (IB) No. 01/HDB/2017 is dismissed. No order as to costs.

Sd/-
RAVIKUMAR DURAISAMY
Member (T)

Sd/-
RAJESWARA RAO VITTANALA
Member (J)

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OF THE ORIGINAL**

V. Annapoorna
V. ANNAPOORNA
Asst. DIRECTOR
NCLT, HYDERABAD.

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER *CA 124/2017 IN*
निर्णय का तारीख *CP(IB) NO. 01/HDB/2017*
DATE OF JUDGEMENT *2-8-2017*
प्रति तैयार किया गया तारीख
COPY MADE READY ON *2-8-2017*

