

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I**

CA No. 199/MB/2022

In

C.P (IB) No. 3638/MB/2018

Under section 241-242, 242(4) of the Companies Act, 2013.

Filed by

**Infrastructure Leasing and Finance Services
Limited,**

...Applicant

Versus

Union of India

...Respondent

In the matter of

**Union of India, Ministry of Corporate Affairs,
Through Regional Director (Western Region)**

...Petitioner

Versus

**Infrastructure Leasing and Finance Services
Limited and Ors.**

... Respondent

Order Pronounced on: 12.08.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)
Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Ashish Kamat, Advocate
For the Respondent : Mr. Aditya Sikka, Advocate

ORDER

Per Coram:

1. This Application is filed seeking approval of this Tribunal for the following reliefs:
 - A. Approval of the settlement proposal of the claims of Amravati Chikhli Expressway Limited against the National Highways Authority of India and permit Amravati Chikhli Expressway Limited and National Highways Authority Limited to execute the Agreed Form Settlement Agreement to record the proposal for termination and settlement of claims by Amravati Chikhli Expressway Limited against National Highways Authority of India;
 - B. Permit Amravati Chikhli Expressway Limited, IL&FS Transportation Networks Limited and National Highways Authority Limited to implement and give effect to the terms of the Agreed Form Settlement Agreement to be executed by and between parties in terms of prayer (A) above;

- C. Allow Amravati Chikhli Expressway Limited to receive the ACEL Compensation Amount of INR 171.42 Crores net of recoveries of INR 31.85 Crores (subject to deduction of tax if any, as applicable, CCIE-III fees of INR 0.05 Crores and less an amount of INR 60.87 Crores (subject to any withholding of an amount of INR 25 Crores towards royalty payment from the ACEL Sub Contractor Settlement Amount) which is to be paid by National Highway Authority of India directly to the ACEL Sub Contractors in terms of the Agreed Form Settlement Agreement approved by the CCIE-III;
- D. Declare and direct that upon payment of a sum of INR 60.87 Crores (subject to any further withholding of an amount of INR 25 Crores towards royalty payment from the ACEL Sub-Contractor Settlement Amount) by National Highway Authority of India to the ACEL Sub-Contractors from the ACEL Settlement Amount, any and all claims of all ACEL subcontractors against IL&FS Transportation Networks Limited or Amaravati Chikhli Expressway Limited arising from and/or in connection with the work done by them for the four laning from 166.000 km to 360.000 km of Amravati Chikhli (Package-I) section of National Highway-6 in the State of Maharashtra shall stand extinguished and the Project be discharged from all encumbrances that ACEL Sub-Contractor may have;
- E. Direct that the funds comprising the ACEL Settlement Amount which are received net of all deductions including the amounts which are to be paid by National Highway

Authority of India directly to the ACEL Sub-Contractors in terms of prayer (D) above i.e., the Residual ACEL Compensation Amount should be deposited into a relevant/ designated Escrow Account (being ACEL Escrow Account) to be intimated by the Applicant/ IL&FS Transportation Networks Limited/ Amaravati Chikhli Expressway Limited and be maintained as fixed deposits and should not be adjusted or set off against any other dues pertaining to any bank/financial institution;

- F. Direct that the distribution of the Residual ACEL Compensation Amount or part thereof or withdrawal of any other amounts from the relevant/ designated escrow account as per prayer (E) above shall be subject to further orders of this Tribunal;

Facts leading to the present Application and Submissions advanced are as follow:

2. The present Application is filed in accordance with:
- i. the affidavit dated February 7, 2020 (**February 2020 Affidavit**) filed by the Petitioner with the Hon'ble National Company Law Appellate Tribunal (**Hon'ble NCLAT**) inter alia placing on record the proposal for the resolution of entities in the domestic roads vertical of the Applicant Group (as more particularly set out hereunder);
 - ii. an order and judgement dated March 12, 2020 (March 12

Order) passed by the Hon'ble NCLAT in Company Appeal Nos. 346 and 347 of 2020 inter alia approving the procedure(s) for the resolution of the Applicant Group suggested by the Petitioner including vide the February 2020 Affidavit, to seek approval from this Tribunal for inter alia executing the Agreed Form Settlement Agreement (defined below) with the National Highways Authority of India (NHAI) and implementing and giving effect to its terms, receiving settlement amounts in respect of Amravati Chikhli Expressway Limited (ACEL) from NHAI in accordance with the MORTH Guidelines (defined below), the consequent distribution of the settlement amounts received by ACEL from NHAI to the ACEL Sub-Contractors (defined below) in accordance with the ACEL Settlement Formula (defined below) and depositing the residual settlement amount in an escrow account of ACEL.

3. Amravati Chikhli Expressway Limited (ACEL) is a wholly owned subsidiary of IL&FS Transportation Networks Limited (ITNL) which is in turn a subsidiary of the Applicant (*Reliefs at Pages. 76-79, Vol. I*).
4. ACEL has entered into a settlement with the National Highways

Authority of India in terms of the Agreed Forms Settlement Agreement [*Annexure 25 (Agreed Form Settlement Agreement Pgs. 675-690)*] pursuant to the 'Guiding Principles for Revolution of Stuck National Highway Projects' dated March 9, 2019 (**MoRTH Guidelines**).

5. ACEL was incorporated as a special purpose vehicle for construction, operation and maintenance of a portion of NH-6 in the State of Maharashtra (**Project**). Subsequently, NHAH entered into a Concession Agreement dated September 8, 2013 (Concession Agreement) with ACEL (*Annexure 2 (Concession Agreement) Pgs 81-419 of Vol I*). In accordance with ITNL's business model, ACEL appointed ITNL as its sole contractor and ITNL in turn sub-contracted the work to various other sub-contractors for the (**ACEL Sub-Contractors**) [*Annexure 3 (List of ACEL Sub-Contractors) Pgs. 420/ PDF Pgs. 86, Vol. III*].

Since July 2018, work on the Project had been suspended at the site due to shortage of funds with the promoter i.e. ITNL, however the Project had achieved physical progress of up to 22.13% by July 2018. In light of the same, NHAH terminated the Concession Agreement vide termination notice dated August 2, 2019 due to ACEL's event of default [*Annexure 4 (Termination Notice) Pgs. 421-*

422 Vol. III].

6. **MoRTH Guidelines and its Application to ACEL:** The Ministry of Road Transport and Highways has issued the MORTH Guidelines, in terms of which road projects which have not attained a provisional completion operations date or the "commercial operations certificate" are classified as "stuck-up projects and can be foreclosed with the concessioning authority (being NHAI in this case) paying, as full and final settlement, an amount which is the lower of the: (a) the value of work done, or (b) 90% of the "Debt Due" (by way of external financing) *[Annexure 10 (MORTH Guidelines) Pgs. 607-609, PDF Pgs. 103-105, Vol IV].*
7. Since there was no financial closure (i.e., receipt of financing from external financial lenders) the settlement amount in case of ACEL is computed on the basis of 'value of work done. Accordingly, ACEL vide its letter dated March 26, 2019 requested for foreclosure of the Concession Agreement and requested NHAI to pay an amount equivalent to value of work done as full and final settlement and foreclose the Concession Agreement *[Annexure 11 (March 26 Letter) @ Pgs. 610-611/PDF Pgs 106-107 of Vol. IV].*
8. It is pertinent to note that in terms of Article 37.3.1 of the

Concession Agreement, ACEL was not entitled to any compensation from NHAI in respect of work done on the Project as ACEL had suspended the work prior to achieving commercial operations [*Article 37.3.1, Annexure 2 (Concession Agreement) @ Pg. 197/ PDF Pgs. 33, Vol. II*]. However, in terms of the MoRTH Guidelines, ACEL will receive some termination payments for foreclosure of the Concession Agreement.

9. Further it is submitted that valuation work done by ACEL in consultation with Engineers Group Ltd. (CEG), appointed by NHAI to assess the value of work done by ACEL on the Project, has valued the same at INR 203.27 crores [*Annexure 13 (CEG's valuation) at Pgs. 620-623, PDF Pgs. 116-119, Vol IV*].
10. In order to resolve disputes pertaining to the settlement amounts payable by NHAI to ACEL, ACEL vide its letter dated January 10, 2020 agreed to referred the dispute to the Conciliation Committee of Independent Experts III (**CCIE-III**) constituted by the NHAI [*Annexure I (reference to CCIE) @Pgs. 650, PDF Pg. 146, Vol IV*].
11. ACEL proposed to foreclose the Concession Agreement on payment of compensation of INR 239 crores by NHAI [*Annexure 19 (February 26 Letter) @ Pgs. 653-655/ PDF pgs. 149-151, Vol. IV*].

However, NHAI did not agree to ACEL's proposal, and offered to pay INR 203.27 crores as determined by CEG.

12. Accordingly, in the meeting of CCIE-III held on October 16, 2020, NHAI proposed a compensation amount of INR 171.37 crores which was based on value of work assessed by CEG of INR 203.27 crores (**ACEL Settlement Amount**) computed as follows [*Annexure 20 Colly @Pgs. 661-625, PDF pes 157-158, Vol. IV*]:

Sr. No.	Particulars	Amount (INR)
1.	Value of work assessed by CEG	<i>203.27 crores</i>
2.	Less: Amounts payable for referring the case to CCIE (paid by NHAI on behalf of ACEL)	5 lakhs
3.	Less: Recoveries against fees payable to CEO and maintenance expenses with respect to the Project	31.9 crores
4.	Total	171.37 crores
5.	Withheld: On account of royalty, which would be released subject to ITNL/ACEL obtaining a no-objection certificate from the concerned authority of the state government. As the responsibility for payment of royalty is of the ACEL Sub-Contractors, any amount withheld by NHAI would be reduced.	<i>25 crores</i>

13. On receiving representation from some sub-contractors, representative of NHAI stated that their claims would be

incorporated in Draft Settlement Agreement. ACEL and NHAI finalized the draft of the settlement agreement to record their understanding (including the ACEL Sub Contractor dues payable to each individual ACEL Sub-Contractor) and settlement of all claims and counterclaims with respect to the Project (**Agreed Form Settlement Agreement**). As per the terms of Agreed Form Settlement Agreement, NHAI has only agreed to pay the ACEL Compensation Amount and no other claim/amount has been agreed to be separately reviewed and approved. The Agreed Form Settlement Agreement sets out inter alia, the distribution of the ACEL Compensation Amount to the individual ACEL Sub-Contractors directly by NHAI (basis the amounts determined in accordance with the Settlement Formula) and deposit of the balance ACEL Compensation Amount in the escrow account of ACEL (**ACEL Escrow Account**) (such amounts, being the "**Residual ACEL Compensation Amount**"). NHAI informed ACEL that the Agreed Form Settlement Agreement (as enclosed in the said email of NHAI) was circulated to the CCIE-III members and the consent of the CCIE-III had been obtained *[Annexure 26 (email confirmation from NHAI) @Pg. 691/ PDF Pgs. 17, Vol. V]*.

14. Pursuant to an application dated March 1, 2022 (Janice Jain Application) along with supplementary submissions on April 4, 2022 filed by the Applicant with Justice (Retd.) D.K. Jain [*Annexure 34 Colly (Justice Jain Application along with supplementary submissions) @Pg. 1072-1118/ PDF Pgs. 58-104, Vol. VIII*], by a letter dated April 13, 2022 (Justice Jain Approval) approved the proposed settlement between NHA I and ACEL subject to approval of this Tribunal, and left it to the discretion of the New Board on whether the NCLAT would have to be approached for the approval of the Settlement Formula (*Annexure 35 Justice Jain Approval) Pg. 1119-1128/ PDF Pg.105-114, Vol. VII*].
15. After deliberations over the discretion granted by the Justice Jain Approval, the New Board, particularly in view of the fact that the Hon'ble NCLAT was already informed about the application of ACEL Settlement Formula vide affidavit dated January 10, 2022, resolved directly approach this Hon'ble Tribunal (Annexure 36 (Resolution dated April 18, 2022) @ Pg. 1129/ PDF Pgs. 115, Vol. VII].
16. As set out above, Justice (Retd.) D.K. Jain in his approval, left it to the wisdom of the New Board to decide whether the Applicant will be required to approach the Hon'ble NCLAT for approval of

the ACEL Settlement Formula, having regard to the time constraints involved in this settlement. At its meeting held on April 18, 2022, the New Board applied its wisdom and resolved that since the Hon'ble NCLAT has already been informed of the revised settlement formula for ACEL (as set out above) by the Petitioner, vide affidavit dated January 10, 2022, on the basis of a letter dated January 4, 2022 issued by the Applicant to the Petitioner [*Annexure 30 (January 4, 2022 letter) @Pg 867-944/ PDF Pg. 23-100, Vol. VI*] *Annexure 31 (January 2022 Affidavit) Pgs. 945-1020/ PDF Pgs 101-176, Vol. VI and @ Pgs. 1021-1065/ PDF Pgs. 7-51, Vol. VII*) and given the time constraints in implementation of the settlement between ACEL and NHAI, the New Board directly approached this Tribunal pursuant to the Justice Jain Approval.

17. Therefore it is submitted that the New Board has the liberty to prescribe a unique settlement formula for the relevant project, keeping in mind the exigencies of each settlement proposal. As set out above, the Hon'ble NCLAT vide Order dated 12th March 2020 the resolution of the Applicant Group to continue as per the procedure suggested by the Petitioner which inter alia includes the Resolution Framework and the February 2020 Affidavit.

18. In this regard, it is also submitted that the process of settlement of claims between ITNL and NHAI and stuck-up projects, the interests/claims of sub-contractors of the project are also involved since NHAI has stipulated in course of negotiating the aforesaid settlement proposals that claims of sub-contractors should be discharged as a part of the settlement process and the relevant projects must be handed over free and clear of encumbrances. Depending upon the exigencies of each stuck-up project, settlement is arrived at for distribution of settlement amount among the sub-contractors which may be different in different projects unless the sub-contractors are paid as per the said settlements, the NHAI may not agree to disburse the money as that is the condition imposed NHAI.

Findings:

19. We have considered the matter in hand in the background of facts and circumstances stated above; the proposed settlement between NHAI and ACEL has also been approved by Justice D.K. Jain former judge of the Hon'ble Supreme Court appointed by the Hon'ble NCLAT to oversee the resolution process of the Applicant Group and to enable a resolution of the Applicant Group in line with the Resolution Framework; and the mandate

given by this Tribunal to the New Board. Thus, we **approve** the Proposed Transaction in the interest of justice.

20. In terms of prayer (B) this bench directs to implement and give effect to the terms of the Agreed Form Settlement Agreement to be executed. Also, prayer C, D, E and F (supra) are made absolute.
21. With the aforesaid observation present **IA No. 199 of 2022 In C.P (IB) No. 3638/MB/C-I/2018** stands disposed of as allowed in above terms.

Sd/-

SHYAM BABU GAUTAM

Member (Technical)

12.08.2022
SAM

Sd/-

JUSTICE P. N. DESHMUKH

Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I**

**CA No. 157/MB/C-I/2022
In
C.P (IB) No. 3638/MB/C-I/2018**

Under section 241-242 of the Companies Act, 2013.

Filed by

**Infrastructure Leasing and Finance Services
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Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)
Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Ashish Kamat a/w Mr.
Adarsh Saxena, Drishti Das
and Roma Bhojani
For the Respondent : Mr. Aditya Sikka, Advocate

ORDER

Per Coram:

1. This Application is filed seeking approval of this Tribunal for the following reliefs:
 - i. Approval of the settlement proposal in terms of Settlement Agreement dated 23.03.2022 between the Applicant, IL&FS Financial Services Limited (“**IFIN**”), IL&FS Engineering and Construction Company Limited (“**IECCL**”), IL& FS Township and Urban Assets Limited (“**ITUAL**”), Hill County Properties Limited (“**HCPL**”), SRS Orion I Investments Limited, SRS Orion II Investments Limited, SRS Orion III Investments Limited (**collectively, “SRS Orion**”), JM Financial Trustee Company Private Limited

(“JMF”), (in its capacity as trustee of JM Financial Property Fund Scheme – I (“JMF-I”) and JM Financial property Fund Scheme-II (“JMF-II”), Cybercity Builders and Developers Private Limited (“Acquirer”) and Jeedimetla Residential Homes Private Limited (“JRHPL”).

- ii. Permit the implementation of the Settlement Agreement dated 23.03.2022 by and between the parties
- iii. Approval of write-off by Hill County Properties Limited of loan advanced to Jeedimetla Residential Homes Private Limited amounting to Rs.11,96,58,069/- (Rupees Eleven Crore Ninety-Six Lakh Fifty-Eight Thousand and Sixty-Nine Only) along with interest thereon till date of closing in terms of the Settlement Agreement dated 23.03.2022.

Facts leading to the present Application and Submissions advanced are as follow:

2. The present Application is filed in accordance with the Order and Judgment dated 12.03.2020 of the Hon’ble NCLAT in Company Appeal Nos. 346 and 347 of 2020 seeking the reliefs detailed hereinabove.

3. HCPL along with IFIN, IECCL and ITUAL (collectively referred to as the “**IL&FS Group**”) has entered into a settlement agreement with the following private equity investors being:
 - a. SRS Orion,
 - b. JMF in its capacity of trustee of JMF-I and JMF-II,
 - c. Acquirer,
 - d. JRHPL (collectively referred to as “**PE Investors**”)
4. HCPL, was promoted by the family members of Mr. Ramalinga Raju (Former Promoter Group/ FPG), certain subsidiaries of HPCL and the Former Promoter Group entered into an Investment Agreement dated 23.01.2008 with the PE Investors. Pursuant, to the Investment Agreement, the PE Investors had invested an amount aggregating to Rs.600 Crores in HCPL by subscribing to Compulsory Convertible Debentures (“**CCDs**”) issued by HCPL. (Annexure 4 at pages 181-362).
5. Thereafter, PE investors alleged events of defaults under the Investments Agreement and referred the dispute to arbitration which resulted in an arbitral award dated 14.08.2009 whereby an amount of Rs. 806 Crores was awarded to the PE Investors with and additional interest at the rate of 18% p.a. thereafter till

realization. The arbitral award was challenged by the FPG and the respondents therein under section 34 of Arbitration and Conciliation Act, 1996 and SRS Orion initiated proceedings under section 9 of the Arbitration Act before the Hon'ble City Civil Court at Hyderabad, which, vide order dated 12.03.2010 restrained HCPL, its subsidiaries, its associate companies, the FPG and certain other parties from dealing with their respective properties.

6. Meanwhile, the erstwhile Company Law Board at New Delhi vide order dated 13.01.2011 inducted IL&FS Group as the new promoters of HCPL with the IL&FS Group holding 80% shareholding in HCPL. However, The PE Investors challenged the CLB Order (Annexure 5 at pages 363-367).
7. In order to settle the aforesaid disputes, the PE Investors, the IL&FS Group, the FPG and HCPL entered into Settlement Terms dated 15.01.2013 ("Settlement terms") and other related agreements according to which the CCD's held by the PE Investors were to be purchased by HCPL, its subsidiaries and two new special purpose vehicles (SPV's) to be incorporated by HCPL as wholly owned subsidiaries (collectively "HCPL and its

subsidiaries”) for an aggregate amount of Rs.850 crores in four tranches over a period of five years. The said Settlement Terms were recorded in a Lok Adalat consent decree on 26.07.2014. Settlement Terms and Consent Decree are annexed as Annexure 6 at pages 368-409 and Annexure 7 at pages 410-560 respectively.

8. After execution of the Settlement Terms, only one SPV (namely, JRHPL) was incorporated, and JRHPL thereafter complied with the Settlement Terms. Pursuant to which, in order to secure purchase/repayment of the tranche 3 of CCD's, the FPG transferred irrevocable development rights of land parcels to JRHPL vide two agreements both dated 10.07.2015.
9. The Tranche 1 and 2 of CCD's were purchased in terms of the Settlement Terms and there was no default in relation to the same. However, HCPL and its subsidiaries have not purchased the Tranche 3 and 4 CCD's which were to be purchased in the year 2019.
10. In light of the aforesaid circumstances, SRS Orion (one of the PE Investors) served a notice of default dated 04.01.2019 and JMF issued a claim notice dated 30.05.2019 regarding default in purchase of the Tranche 3 CCD's. Thereafter, SRS Orion and

JMF served notice dated 27.03.2019 and 03.07.2019 respectively exercising its takeover rights under clause 6.5.2. of the Settlement Terms.

11. The abovementioned takeover notice by SRS Orion was the subject matter of an Interlocutory Application before Hon'ble National Company Law Appellate Tribunal ("NCLAT") wherein the Hon'ble NCLAT vide Order dated 12th March 2020 directed that the New Board of the Applicant may negotiate with the PE Investors for fresh settlement terms. The relevant paragraph reads as follows:

"In so far as claim of SRS Orion Investments Ltd. and others is concerned, we are of the view that the matter should be taken up by the new Management / Board of Directors, who should take into consideration the decision of the Company Law Board and the settlement reached between the parties. It will be open to the New Management / Board of Directors of IL&FS and Group Companies to negotiate with SRS Orion Investments Ltd. and others (Applicants) for fresh terms of settlement, if they intend to change the shareholding of HCPL and sell it to some other person. Thereafter, the matter should be placed before the Hon'ble Justice (Retd.) D.K. Jain for its approval and if approved such proposal should be placed before the NCLT for its approval. Upon receipt of such approval, only the

shareholding of HCPL be transferred.”

12. In light of the March 12, 2020 Order of Hon'ble NCLAT, the Applicant and the PE Investors have negotiated the Settlement proposal which inter alia sets out the following key terms as captured in the Agreed Form Settlement Agreement:

- i. IL&FS Group acknowledges and agrees that it has no objection to the assignment of the Takeover Rights by the PE Investors to the Acquirer and to the exercise by the Acquirer of the takeover rights.
- ii. All obligations in respect of Tranche 3 CCD's and Tranche 4 CCD's shall stand extinguished. As per this settlement, PE Investors shall sell to the Acquirer, all of Tranche 3 CCD's aggregating to Rs.241,00,00,000/- (Rupees Two Hundred and Forty-One Crores Only), free and clear of all encumbrance (except as provided in clause 6.4 of the Settlement Terms) for a consideration of Rs.152,50,00,000/- (Rupees One Hundred and Fifty-Two Crore and Fifty Lakh Only).
- iii. The CCD Purchase Consideration payable to PE Investors shall be deposited in escrow accounts maintained in India

(for payments to be made to JMF) and Mauritius (for payments to be made to SRS Orion).

- iv. HCPL had advanced an aggregate amount of Rs.11,96,58,069/- (Rupees Eleven Crore Ninety-Six Lakh Fifty-Eight Thousand and Sixty-Nine Only) in 2015, 2016 and 2017 to JRHPL towards the project development work (Specified JRHPL Liabilities). On the closing date, the specified JRHPL liabilities will be written off along with interest thereto.
- v. To the extent that the PE Investors have filed any claim in respect of the Settlement Terms in any forum, the PE Investors shall file a withdrawal letter/form.
- vi. Once the liabilities/obligations in respect of the Tranche 3 CCDs and Tranche 4 CCDs are extinguished, IL&FS Group will no longer be bound by the requirement to maintain at least 40% shareholding in HCPL.

13. The Applicant submits that the rationale for the Settlement Proposal are four-fold:

- a) As per the Settlement Terms, the liability of the Applicant Group in respect of the Tranche 3 CCDs in Rs.241 Crore

and exercise of the takeover rights by the PE Investors is to have the effect of discharging only this liability. Additionally, as part of the present settlement proposal liability of Rs.271 Crore in respect of the Tranche 4 CCDs is also being extinguished/discharged.

- b) The land development rights that are vested in JRHPL will get transferred on an “as is where basis” to the Acquirer.
- c) If the Settlement proposal is not implemented, the process of divestment of the 80% of the equity stake held by the IL&LS Group in HCPL may be impeded till the issues raised by the PE Investors in the ongoing legal proceedings are decided.
- d) Write off of JRHPL’s liability amounting to Rs.11,96,58,069/- along with interest thereon till the date of closing is justified on account of aforementioned benefits of the Settlement agreement.

14. The HCPL Board, the JRHPL Board, the IECCL Board, the ITUAL Board, the IFIN Board and the New Board passed resolutions (each by way of circulation) in October 2021, approving the Agreed Form of the Settlement Agreement.

15. The New Board in its meeting held on 08.01.2022 approved the constitution of Committee of Creditors of HCPL (“COC of HCPL”). Thereafter, the HCPL CoC by 98.01% majority granted its approval to HCPL for entering into Agreed Form of the Settlement Agreement in its meeting held on 17.01.2022. (Annexure 11 at pages 604-606).
16. Subsequently, pursuant to applications and supplementary applications made by the Applicant, Justice D.K. Jain former judge of the Hon’ble Supreme Court vide letter dated 23.02.2022 approved the Agreed Form of the Settlement Agreement and waiver by HCPL of the loan advanced to JRHPL. (Annexure 13 at pages 611-622).
17. Upon obtaining Justice Jain’s approval, the Agreed Form of the Settlement Agreement has been executed by the Settlement parties on 23.03.2022. (Annexure 14 at pages 623-658).

Findings:

18. We have considered the matter in hand in the background of facts and circumstances stated above; the Settlement Agreement has also been approved by Justice D.K. Jain former judge of the

Hon'ble Supreme Court appointed by the Hon'ble NCLAT to oversee the resolution process of the Applicant Group and to enable a resolution of the Applicant Group in line with the Resolution Framework; and the mandate given by this Tribunal to the New Board. Thus, we **approve** the Proposed Transaction in the interest of justice.

19. With respect to prayer (iii) in application we hold that write-off of loan advanced by HCPL to JRHPL amounting to Rs.11,96,58,069/- (Rupees Eleven Crore Ninety-Six Lakh Fifty-Eight Thousand and Sixty-Nine Only) along with interest thereon till date of closing in terms of the Settlement Agreement dated 23.03.2022 is permitted.
20. In terms of prayer (ii) we direct implementation of the Settlement Agreement dated 23.03.2022 by and between the parties.
21. With the aforesaid observation present **CA No. 157 of 2022 In C.P (IB) No. 3638/MB/C-I/2018** stands disposed of as allowed in above terms.

Sd/-

SHYAM BABU GAUTAM
Member (Technical)
12.08.2022
SAM

Sd/-

JUSTICE P. N. DESHMUKH
Member (Judicial)