

IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

CA No. 209 of 2021

in

C.P. No. 3638/MB/2018

**Infrastructure Leasing & Financial
Services Limited**

...Applicant

In the matter of

Union of India,

...Petitioner

V/s

**Infrastructure Leasing & Financial
Services Limited & Ors.**

...Respondent

Order delivered on 04/06/2024

CORAM:

Hon'ble Member (Judicial) Shri Justice V.G. Bisht (Retd.)

Hon'ble Member (Technical) Shri Prabhat Kumar

Appearance:

For the Applicant : Ms. Drishti Das, Advocate

For the Union of India : Mr. Aditya Sikka, Advocate

Per : Prabhat Kumar, Member (Technical)

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COURT ROOM NO. 1,
MUMBAI BENCH

CA No. 209 of 2021
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C.P. No. 3638/MB/2018

ORDER

1. The present Company Application has been filed by the Applicant seeking the following reliefs as further amended *vide* Additional Affidavit dt. ___:

- A. *Approve the sale of 100% (one hundred per cent) of shareholding in Karyavattom Sports Facilities Limited held by IL&FS Transportation Networks Limited to the Premier Group (on the terms set out in the Share Purchase Agreement dated February 27, 2024) free and clear from all encumbrances, liens, security interest and third party claims subject to each members of the Premier Group, its parent company (as defined in the RFP), ultimate parent (as defined in the RFP) and/or their respective promoters or directors having cleared its financial default, upon receipt of the sale consideration of INR 175,00,00,000 (subject to applicable adjustments) as contemplated in the Share Purchase Agreement dated February 27, 2024 and upon completion of all conditions contemplated in terms of the Share Purchase Agreement dated February 27, 2024 ;*
- B. *Allow the Applicant, IL&FS Transportation Networks Limited, Karyavattom Sports Facilities Limited and the Premier Group to implement and give effect to the terms of the Share Purchase Agreement dated February 27, 2024 ;*
- C. *Permit and direct that the sale consideration of INR 175,00,00,000/- (Indian Rupees One Hundred and Seventy Five Crores) (subject to applicable adjustments) payable under the Share Purchase Agreement dated February 27, 2024 be paid by the Premier Group in the manner as contemplated under the Share Purchase Agreement dated February 27, 2024 ;*
- D. *Permit/direct that upon receipt of the Revised Premier Bid i.e., an amount of INR 175,00,00,000:*

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- (i) *the Applicant be permitted to utilize and pay an amount of INR 1,12,85,984/- and any further amounts towards Resolution Process Costs that have accrued or been incurred in connection therewith till the sale/ resolution process of Karyavattom Sports Facilities Limited; and*
 - (ii) *the balance amount (being the Revised Premier Bid less Resolution Process Costs computed in terms of prayer D (i) above) along with any additional amounts lying in the KSFL Escrow/ Bank Account be distributed to the creditors of Karyavattom Sports Facilities Limited as per the amounts admitted by the Claims Management Consultant, as of October 15, 2018 in accordance with the Revised Distribution Framework;*
- E.** *Declare and direct that upon payment of the Revised Premier Bid Amount of INR 175,00,00,000:*
 - a. all claims (disclosed or undisclosed, and whether existing at or relating to a period prior to October 15, 2018) of all the creditors (including, the Central Government, any State Government, statutory, local or regulatory authorities to whom such claim is owed under any law including any claim arising out of regulatory or enforcement action which pertains to a period prior to October 15, 2018)) of Karyavattom Sports Facilities Limited; and*
 - b. all liabilities whether actual or contingent and whether existing at or relating to a period prior to October 15, 2018 including such claims in respect of which arbitration proceedings have been initiated against Karyavattom Sports Facilities Limited,*
shall stand extinguished.
- F.** *Permit IL&FS Transportation Networks Limited to receive additional annuities or lump sum pay out from the Premier Group as contemplated under the Share Purchase Agreement dated February 27, 2024 in a designated escrow account and direct that any amounts received by IL&FS Transportation Networks Limited from the Premier Group as additional annuities or lump sum pay out:*
 - (i) *shall not be withdrawn (whether fully or any part thereof) and that such amounts deposited as additional annuities or lump*

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sum pay out should be distributed to the creditors of Karyavattom Sports Facilities Limited as per the amounts admitted by the Claims Management Consultant, as of October 15, 2018 in accordance with the Revised Distribution Framework; and

(ii) till such time the amounts deposited as additional annuities or lump sum pay out is distributed to the creditors to Karyavattom Sports Facilities Limited shall be maintained as fixed deposits and shall not be adjusted or set off against any dues pertaining to any bank and/or financial institution and shall be held in trust for the creditors of Karyavattom Sports Facilities Limited ;

G. *For any further reliefs as this Hon'ble Tribunal deems fit and proper in the facts and circumstances.*

2. The present Applicant is filed seeking approval of this Tribunal for the sale of 100% of shareholding in Karyavattom Sports Facilities Limited (KSFL) held by IL&FS Transportation Networks Limited (ITNL) (a subsidiary of the Applicant in the domestic roads vertical of the IL&FS Group to the Premier Group (on the terms set out in the Agreed Form KSFL SPA (the "Proposed Transaction").

3. Justice (Retd.) D.K. Jain by a letter dated February 23, 2021, inter alia informed the Applicant that he was constrained to withhold his decision on the sale/ resolution process for KSFL until this Tribunal rendered its decision in MA 369 of 2020, where he was arrayed as a respondent.

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Further, upon a query by the Applicant by a letter dated March 25, 2021, Justice (Retd.) D.K. Jain issued a letter dated May 7, 2021, informing the Applicant that his approval was not required for the Applicant to approach this Tribunal. Subsequently, MA 369 was withdrawn, *vide* order dt. _____.

4. Ld. Counsel for the Union of India have no objection if the order is passed allowing the Sale, without prejudice to the rights and contentions of SFIO to proceed against.
5. Heard learned Counsel for Parties. Perused records.
6. In terms of approved resolution framework of IL&FS and its associate companies, the resolution framework was to be resolved in terms of Hon'ble NCLAT approved resolution framework which contemplated the approval of this Tribunal for consummation of a transaction in the resolution of the Companies. Hon'ble Justice D.K. Jain, (Retd.) of Supreme Court has recorded his consent to the proposed sale of 100% (one hundred per cent) of shareholding in Karyavattom Sports Facilities Limited held by IL&FS Transportation Networks Limited to the Premier Group. The objections filed by Braavos *vide* MA No. 369 OF 2020, do not survive after its withdrawal. The Union of India has conveyed its

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no objection to the proposed OTS without prejudice to the rights and contentions of SFIO to proceed against the erring officials/personnels. In view of this facts, we find no reason to deny the prayers in the present application.

7. Accordingly, we approve the sale of 100% (one hundred per cent) of shareholding in Karyavattom Sports Facilities Limited held by IL&FS Transportation Networks Limited to the Premier Group (on the terms set out in the Share Purchase Agreement dated February 27, 2024) free and clear from all encumbrances, liens, security interest and third party claims subject to each members of the Premier Group, its parent company (as defined in the RFP), ultimate parent (as defined in the RFP) and/ or their respective promoters or directors having cleared its financial default, upon receipt of the sale consideration of INR 175,00,00,000 (subject to applicable adjustments) as contemplated in the Share Purchase Agreement dated February 27, 2024 and upon completion of all conditions contemplated in terms of the Share Purchase Agreement dated February 27, 2024.
8. We allow the Applicant, IL&FS Transportation Networks Limited, Karyavattom Sports Facilities Limited and the Premier Group to

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implement and give effect to the terms of the Share Purchase Agreement dated February 27, 2024.

9. We direct that the sale consideration of INR 175,00,00,000/- (Indian Rupees One Hundred and Seventy Five Crores) (subject to applicable adjustments) payable under the Share Purchase Agreement dated February 27, 2024 shall be paid by the Premier Group in the manner as contemplated under the Share Purchase Agreement dated February 27, 2024.

10. We direct that upon receipt of the Revised Premier Bid i.e., an amount of INR 175,00,00,000:

- (i) the Applicant shall be permitted to utilize and pay an amount of INR 1,12,85,984/- and any further amounts towards Resolution Process Costs that have accrued or been incurred in connection therewith till the sale/ resolution process of Karyavattom Sports Facilities Limited; and
- (ii) the balance amount (being the Revised Premier Bid less Resolution Process Costs computed in terms of prayer D (i) above) along with any additional amounts lying in

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the KSFL Escrow/ Bank Account shall be distributed to the creditors of Karyavattom Sports Facilities Limited as per the amounts admitted by the Claims Management Consultant, as of October 15, 2018 in accordance with the Revised Distribution Framework;

11. We further direct that upon payment of the Revised Premier Bid Amount of INR 175,00,00,000:

- a. all claims (disclosed or undisclosed, and whether existing at or relating to a period prior to October 15, 2018) of all the creditors (including, the Central Government, any State Government, statutory, local or regulatory authorities to whom such claim is owed under any law including any claim arising out of regulatory or enforcement action which pertains to a period prior to October 15, 2018)) of Karyavattom Sports Facilities Limited; and
- b. all liabilities whether actual or contingent and whether existing at or relating to a period prior to October 15, 2018 including such claims in respect of which arbitration

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proceedings have been initiated against Karyavattom
Sports Facilities Limited,

shall stand extinguished.

- 12.** IL&FS Transportation Networks Limited shall receive additional annuities or lump sum pay out from the Premier Group as contemplated under the Share Purchase Agreement dated February 27, 2024 in a designated escrow account and any amounts received by IL&FS Transportation Networks Limited from the Premier Group as additional annuities or lump sum pay out:
- a. shall not be withdrawn (whether fully or any part thereof) and that such amounts deposited as additional annuities or lump sum pay out should be distributed to the creditors of Karyavattom Sports Facilities Limited as per the amounts admitted by the Claims Management Consultant, as of October 15, 2018 in accordance with the Revised Distribution Framework; and
 - b. till such time the amounts deposited as additional annuities or lump sum pay out is distributed to the creditors to Karyavattom Sports Facilities Limited shall be maintained as fixed deposits and shall not be adjusted or set off against against any dues

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pertaining to any bank and/or financial institution and shall be held in trust for the creditors of Karyavattom Sports Facilities Limited ;

13. With the aforesaid observations and directions, the Company Application bearing CA No. 209 of 2021, is disposed of as allowed.
14. There will, however, be no order as to costs.

**Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)**

**Sd/-
Justice V.G. BISHT
MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL

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CA No. 9 of 2023

in

C.P. No. 3638/MB/2018

Infrastructure Leasing & Financial Services Limited

...Applicant

In the matter of

Union of India,

...Petitioner

V/s

**Infrastructure Leasing & Financial
Services Limited & Ors.**

...Respondent

Order delivered on 04/06/2024

CORAM:

Hon'ble Member (Judicial) Shri Justice V.G. Bisht (Retd.)

Hon'ble Member (Technical) Shri Prabhat Kumar

Appearance:

For the Applicant : Mr. Kuber Dewan, Advocate

For the Union of India : Mr. Aditya Sikka, Advocate

Per : Prabhat Kumar, Member (Technical)

ORDER

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CA No. 9 of 2023
in
C.P. No. 3638/MB/2018

1. The present Company Application has been filed by the Applicant seeking the following reliefs:

- A. Approve the one time settlement proposal, as approved by Hon'ble Justice (Retd.) D.K. Jain between IL&FS Financial Services Limited and Amrit Environmental Technologies Private Limited, through Orient Green Power Company Limited and permit the parties to execute necessary documents to give effect to the AETPL-OGPL OTS Proposal;*
- B. Direct that the amounts received by IL&FS Financial Services Limited pursuant to the AETPL-OGPL OTS Proposal except the proceeds of the sale of the land, be paid into the designated bank account to be intimated by the Applicant and/or IL&FS Financial Services Limited;*
- C. Direct that the amounts received by IL&FS Financial Services Limited pursuant to the sale of the land, be paid into the escrow account (of which IL&FS Financial Services is the sole beneficiary) and be released to IL&FS Financial Services Limited;*
- D. Direct the amounts released to IL&FS Financial Services Limited pursuant to prayer (C) above, shall be paid into a designated bank account and the amount shall be maintained as a separate fixed deposit and shall not be adjusted or set off against any dues pertaining to any bank and/or financial institution;*
- E. Direct that the distribution of the one time settlement amounts received by IL&FS Financial Services Limited under the AETPL-OGPL OTS Proposal or part thereof or withdrawal of any amounts from the designated bank account received as proceeds of AETPL-OGPL OTS Proposal be subject to further orders of this Hon'ble Tribunal.*

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2. The present Applicant is being filed seeking the approval from this Bench to consummate the one time Settlement agreements by IL&FS Financial Services Ltd. and Amrit Environmental Technologies Pvt. Ltd. through Orient Green Power Company Limited AETPL's Corporate Guarantor.
3. It is submitted that during the course of implementation of the Resolution Framework, IFIN reached out to its Third Party borrowers, offering to close any default accounts upon receipt of a one-time upfront payment. Accordingly, IFIN received an OTS offer from AETPL through OGPL, the Corporate Guarantor for the facility availed by AETPL.
 - a. AETPL availed a term loan facility of Rs. 39,00,00,000/- from IFIN in terms of a loan agreement dt. 30.06.2014. The outstanding amount against the said facility as on 31.03.2022 is Rs. 46.71 Crores. Various proposals were received by IFIN in respect of the facility from the Shriram Group. Vide letter dated 03.03.2022, OGPL proposed Two options for settlement. We have perused the settlement options as elaborately mentioned in the Application.

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b. IFIN further had a discussion with AETPL/OGPL on the aforementioned OTS proposal, for inclusion of the following additional conditions:

- i. The instalments will be paid irrespective of sale of the AETPL land parcels in Rajasthan i.e. even if such land parcels are not sold, OGPL will be required to repay the amounts as per the OTS proposal;
- ii. The no-objection certificate for sale of the aforementioned land parcels shall be provided by IFIN only after a minimum amount of Rs. 13 crores is repaid to IFIN, which aggregates to approximately 43% of total settlement amount proposed under Option II above. Additionally, the terms of the no-objection certificate to be provided by IFIN will stipulate that a tripartite agreement will be required to be executed with the proposed purchaser, to ensure that the entire sale consideration from the sale of such land parcels is paid to IFIN directly from the purchaser;

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- iii. The proceeds of such sale of land will be adjusted by IFIN against the latter instalments first (i.e. last instalment first) which will result in an accelerated repayment.

The above-mentioned conditions were accepted by AETPL/OGPL on 13.03.2022.

4. The Board of IFIN approved Option II of OGPL's proposal on 14.04.2022. The proposal was approved by the New Board of the Applicant company on 18.04.2022. Subsequent to receipt of the approvals from the Boards of the respective companies, an application dated 14.06.2022 was filed before Hon'ble (Retd.) Justice D.K. Jain seeking his approval for executing the settlement agreement and necessary documents to implement the OTS Proposal. Hon'ble (Retd.) Justice D.K. Jain granted the said approval by way of letter dated 27.08.2022.

- a. Subsequent to receipt of approval from Hon'ble (Retd.) Justice D.K. Jain, the parties have recorded the terms of the OTS Proposal in a draft Settlement Agreement, which shall be binding upon the

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parties in nature but the execution and consummation of which shall be subject to approval of the OTS Proposal by this Tribunal.

- b. It is submitted that the approval of the consummation of the AETPL-OGPL OTS Proposal by IFIN is an intermediate step towards the resolution of IFIN and the Applicant Group. The proceeds received from the consummation of the AETPL-OGPL OTS Proposal by IFIN will be maintained in a Fixed Deposit and shall not be adjusted or set off against any dues pertaining to any bank and/or financial institution. These proceeds will be distributed to Creditors at a later point in time, with prior approval from this Tribunal. It is also submitted that the present Application constitutes recovery of monies by an entity in the Applicant Group which will in turn pave the way for the resolution of the Applicant.

5. Heard Submissions of learned Counsel for Parties. Perused records.
6. In terms of approved resolution framework of IL&FS and its associate companies, the resolution framework was to be resolved in terms of Hon'ble NCLAT approved resolution framework which contemplated the approval of this Tribunal for consummation of a transaction in the

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resolution of the Companies. Hon'ble Justice D.K. Jain, (Retd.) of Supreme Court has recorded his consent to the proposed OTS of AETPL-OGPL. The Union of India has conveyed its no objection to the proposed OTS. In view of this facts, we find no reason to deny the prayers in the present application.

7. Hence, we approve the one time settlement proposal, as approved by Hon'ble Justice (Retd.) D.K. Jain between IL&FS Financial Services Limited and Amrit Environmental Technologies Private Limited, through Orient Green Power Company Limited and permit the parties to execute necessary documents to give effect to the AETPL-OGPL OTS Proposal.
8. The amounts received by IL&FS Financial Services Limited pursuant to the AETPL-OGPL OTS Proposal except the proceeds of the sale of the land, shall be paid into the designated bank account to be intimated by the Applicant and/or IL&FS Financial Services Limited.
9. The amounts received by IL&FS Financial Services Limited pursuant to the sale of the land, shall be paid into the escrow account (of which IL&FS Financial Services is the sole beneficiary) and shall be released to IL&FS Financial Services Limited.

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- 10.**The amounts released to IL&FS Financial Services Limited pursuant to clause 9 above, shall be paid into a designated bank account and the amount shall be maintained as a separate fixed deposit and shall not be adjusted or set off against any dues pertaining to any bank and/or financial institution.
- 11.**The distribution of the one time settlement amounts received by IL&FS Financial Services Limited under the AETPL-OGPL OTS Proposal or part thereof or withdrawal of any amounts from the designated bank account received as proceeds of AETPL-OGPL OTS Proposal shall be subject to further orders of this Tribunal.
- 12.**In view of the foregoing, CA 9 of 2023 is allowed and disposed of accordingly.

**Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)**

**Sd/-
Justice V.G. BISHT
MEMBER (JUDICIAL)**

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
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Item No. 59

CA 640/2022 in CP/3638(MB)2018

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **04.06.2024**

NAME OF THE PARTIES: **UNION OF INDIA V/s INFRASTRUCTURE**
LEASING AND FINANCIAL SERVICES
LTD. & ORS.

Section 241-242 of the Companies Act, 2013 and Rule 11

ORDER

CA 640/2022 in CP/3638(MB)2018

- 1) Ms. Drishti Das, Ld. Counsel for the IL&FS and Mr. Kabir Saund, Ld. Counsel for the Respondent are present.
- 2) It is submitted that the pleadings in the present matter are complete and the matter is ripe for hearing. Counsel for the IL&FS informs that Legal Entity, in respect of which direction are sought, has been resolved and certain approvals are under way; accordingly, seeks long time. It is to be noted that the National Company Law Tribunal has already approved the Proposal.
- 3) Stand over to 05.07.2024, for further consideration and hearing.

Sd/-

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

Vedant Kedare