

**THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Through Web-based Video Conferencing platform)**

**ITEM No.20
I.A No.109/2022 in
CP(IB) No.137/BB/2019**

IN THE MATTER OF:

M/s. India Renewable Energy Development Ltd. ... Petitioner
Vs.
M/s. Nobel Ispat & Energies Ltd. ... Respondent

Order U/s. 7 of the I&B Code, 2016

Order delivered on 07.04.2022

CORAM:

**SHRI AJAY KUMAR VATSAVAYI
HON'BLE MEMBER (JUDICIAL)**

**SHRI MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Mr. Chandramouli Prabhakar, Adv.
For the Commercial Tax Dept. : Mr. Sandeep Huilgol, Adv.

ORDER

I.A No.109 of 2022

1. This application has been filed by Applicant i.e. M/s. SLD Steels Private Limited who is the Successful Resolution Applicant of M/s. Noble Ispat & Energies Limited against the Assistant Commissioner of Commercial Taxes, Davanagere under Section 60(5) read with Section 31 of the IBC, 2016 and Rule 11 of the NCLT Rules, 2016 seeking clarification in respect of order dated 19.03.2021 in I.A No. 454 of 2020 in CP(IB)No.137 of 2019.
2. Heard Mr. Chandramouli Prabhakar, learned Counsel for the Applicant and Mr. Sandeep Huilgol, learned Counsel for the Sole Respondent on receipt of advance notice.
3. It is seen that this Adjudicating Authority vide its order dated 19.03.2021 in I.A No.454 of 2020 in CP(IB)No.137 of 2019 which was filed under Section 31(1) of the IBC, 2016 approved the Resolution Plan of the Applicant M/s. SLD Steels Private Limited in respect of the Corporate Debtor M/s. Noble Ispat & Energies Ltd.
4. The operative portion of the said order reads as under:

—Sd—

“

8. Accordingly, by exercising the powers conferred on this Adjudicating Authority under Section 31(1) of the IBC, 2016, both the CP(IB)NO.137/BB/2019 and I.A No.454 of 2020 are disposed of with the following directions:

- (1) The Resolution Plan of M/s. SLD Steels Private Limited ('Resolution Applicant'), as approved by the Committee of Creditors with 100% voting share, is hereby approved by declaring that the said Resolution Plan shall be binding on the Corporate Debtor-M/s. Noble Ispat & Energies Limited, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors, and other stakeholders involved in the Resolution Plan.
 - (2) The said Resolution Plan shall come into force from the date of pronouncement of this Order.
 - (3) The moratorium imposed vide order dated 26.08.2019 passed in the Company Petition shall cease to have effect from the date of communication of the order.
 - (4) The Resolution Professional is directed to handover the management control of all the assets, documents/records in physical and/or digital form on an as is where is basis to the Resolution Applicant immediately, and the Resolution Professional will cease to be Resolution Professional.
 - (5) The Resolution Professional shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Board to be recorded on its database.
 - (6) The Resolution Applicant shall pursuant to the Resolution Plan approved under sub-section (1) obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the Resolution Plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later.
 - (7) The Resolution Applicant is at liberty to file any miscellaneous application seeking for clarification, if any, in the implementation of the terms and conditions to the Resolution Plan.
 - (8) In view of the above, pending I.As/Review Applications, if any, also automatically stand disposed of.
- No order as to costs.”

5. It is the case of the Applicant that in spite of approval of the Resolution Plan of the Applicant in respect of Corporate Debtor i.e. M/s. Noble Ispat & Energies Ltd. by this Adjudicating Authority, the sole Respondent Assistant Commissioner of Commercial Taxes vide

—sd—

impugned notice dated 02.02.2022 directed the Applicant to pay Rs.9,29,83,010/- being the arrears of tax/registration fee/penalty levied on/payable by the Corporate Debtor, failing which the same shall be recorded by attachment or distraint and sales of the movable/immovable properties of the Corporate Debtor. It is submitted that, even as per the said notice itself, admittedly, the amount claimed under the notice pertaining to the period prior to the initiation of CIRP against the Corporate Debtor.

6. It is the case of the Applicant that, no claim pertaining to the period prior to the initiation of the CIRP against the Corporate Debtor is maintainable and by virtue of the CIRP proceedings and the subsequent approval of the Resolution Plan, the said claim of the Respondent stands extinguished. However, in spite of the same, Respondent issued the impugned notice to the Applicant.
7. It is seen that the Applicant has not given any reply to the notice dated 02.02.2022 of the Respondent till date. In our view, the Applicant, at the first instance, required to submit the reply to the notice and even thereafter, if the Respondent passes any order and if the Applicant is still aggrieved, he may avail the remedies in accordance with law against the said order. Without even submitting any reply to the impugned notice, the Applicant cannot maintain the instant I.A.
8. In the circumstances, the instant I.A is **dismissed**, however, with a liberty to the Applicant to approach the Respondent, in accordance with law. It is also made clear that we have not expressed any opinion on the merit of the issue involved in the I.A.
9. Accordingly, I.A is **disposed of**.

— sd —

(MANOJ KUMAR DUBÉY)
MEMBER (TECHNICAL)

— sd —

(AJAY KUMAR VATSAVAYI)
MEMBER (JUDICIAL)