

IN THE NATIONAL COMPANY LAW TRIBUNAL: CHANDIGARH BENCH

COURT No.1

(through hybrid mode)

ITEM No. 3

616/2020, 1570/2023, 2428/2023, CA 600/2019

CP(IB) No. 174/Chd/Chd/2018

(Admitted)

IN THE MATTER OF:-

Small Industries Development Bank of
India

...Petitioner

Versus

International Mega Food Park Ltd.

...Respondent

Under Section: 7,30(6), 60(5)

Order delivered on 10.04.2024

CORAM:

**SH. L. N. GUPTA
MEMBER (TECHNICAL)**

**SH. HARNAM SINGH THAKUR
MEMBER (JUDICIAL)**

PRESENT:

**For the applicant/RP
in CA No.600/2019,
for respondent
No.1/RP In IA
No.2428/2023 and for
respondent No.2/RP
in IA No.1570/2023** : Dr. Rajansh Thukral, Advocate with Dr. Surekha
Thukral and Mr. Sudhharth Thukral, Advocates

**For the RP in IA
No.616/2020** : Ms. Munisha Gandhi, Senior Advocate with Dr.
Rajansh Thukral, Advocate with Dr. Surekha Thukral
and Mr. Sudhharth Thukral, Advocates

**For CoC in IA
No.1570/23** : Mr. Rakesh Gupta with Mr. Rakshit Gupta, Advocates

**For the applicant in
IA No.1570/23** : Mr. A. S. Narang with Ms. Manpreet Kaur, Advocoates

For ex- : Mr. Manuj Nagnath, Advocate

**Director/Promoter in
IA No.616/2020**

**For the applicant in
IA No.2428/2023** : Mr. Mayank Wadhwa, Advocate

**For the respondent in
CA No.600/2019** : Ms. Divya Sharma, Advocate

For the SRA : Mr. Sanju Kumar, Advocate

ORDER

616/2020

List on 07.05.2024

1570/2023

The present application has been filed by the Suspended Director with a prayer to direct respondent Nos.1 and 2 to release the profits earned by the corporate debtor in favour of the secured financial creditors. During the course of hearing, Mr. Rakshit Gupta, Id. counsel appearing on behalf of the CoC, too submitted that there are profits in the company, which accrued post-approval of the Resolution Plan and these profits should go to the financial creditors.

At this juncture, Id. counsel for the RP submitted that it is a fact that post approval of the Resolution Plan in 2020 and subsequent negotiations in 2020, the profits of around 20 crores approximately have accrued to the kitty of the corporate debtor. Ld. counsel for the RP is in agreement with the addition of profits, the value of resolution plan may increase which will in the interest of stakeholders. Mr. Sanju Kumar, Advocate is present on behalf of the SRA.

In the backdrop and the fact that the objective of the IBC is maximisation of value of assets of the Corporate debtor, the Resolution Professional is directed to place the matter before the CoC with a self-contained note indicating the subsequent profits accrued to the accounts of the corporate debtor and for further negotiations with the SRA or any other decision which the CoC may deem fit in the interest maximising the value of assets of the corporate debtor. The outcome of the CoC meeting will be filed by the RP by filing a formal application with affidavit within 15 days. The period of 15 days will be counted from the date when the *Dasti* order is received.

With these observations, 5170/2023 stands ***disposed of*** accordingly.

2428/2023

Heard. Order reserved.

CA 600/2019

This is an application filed by the Resolution Professional with following prayers:-

- a. That the present application may please be allowed;***
- b. That this Hon'ble Tribunal may be pleased to issue directions to the respondent to make payment of Rs.11,87,75,913/- (Rupees eleven crores eighty seven lakh seventy five thousand nine hundred thirteen only) together with interest @ 18% p.a.;***
- c. To pass appropriate orders pursuant to Section 71 of the Insolvency and Bankruptcy Code, 2016 against the respondent; and/or***
- d. To issue such other or further directions as may be deemed fit in the facts and circumstances of the case.***

During the course of arguments, Id. counsel for the RP submitted that in the meantime, the amount payable by respondent may have gone up to Rs.30 crores approximately. On being questioned whether the Lease Agreement had any clause relating to increase in rentals after certain intervals, Id. counsel for the RP submitted that he would check the Lease Agreement and inform the Adjudicating Authority.

In this backdrop and in the interest of maximization of value of assets of the corporate debtor, we refer the matter to the CoC where the RP would apprise the CoC with updated calculations of the payment due from the respondents as well as if there was any clause for revision of rent in the Lease Agreement and the action taken enforcement thereof. He would also place a self-contained agenda in this regard before the CoC seeking decision of CoC on disbursement/utilisation of the amount to be received from the respondent. Ld. counsel for respondent seeks to inform their stand to the RP by way communication. The outcome of the decision of CoC would be

filed by way of an application with affidavit by the RP with this Adjudicating Authority within one week. The period of 15 days will be counted from the date when the *Dasti* order is received.

List on 07.05.2024.

Sd/-
(L. N. GUPTA)
MEMBER (TECHNICAL)
Tanvi

Sd/-
(HARNAM SINGH THAKUR)
MEMBER (JUDICIAL)