

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT- II)

Item No. 212
(IB)-101(PB)/2017

Contt. Pett.-55/2023, IA-5640/2023, New IA-2952/2024

IN THE MATTER OF:

Educomp Solutions Limited

... Applicant/Petitioner

Under Section: 10 of IBC, 2016

Order delivered on 04.06.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH
HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Aditya Dewan, Adv. Sahil Chandra, Adv. Parth Tiwari in IA-2952/2024.
For the ERP : Adv. Abhishek Sharma, Adv. Raghav Mittal, Adv. Kritya Sinha, Adv. Himanshu Kohli
For the CoC : Adv. Siddhant Kant, Adv. Gayathri Balasubramanian in IA-5640/2023.
For the SRA : Mr. Rajiv Ranjan Sr. Adv., Kumar Anurag Singh and Zain A. Khan

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-2952/2024: Issue notice. Ld. Counsel appearing for the RP accepts notice and seeks an opportunity to file the reply to IA within one week. Allowed.

List on 22.07.2024.

IA-5640/2023: Pursuant to order dated 09.05.2024, Mr. Sumit Khadria the CFO qua the SRA appeared in person and submitted that he has been authorised by Board of Directors qua the SRA to represent it. He submitted that Mr. Robin Raina is one of the Director, on the Board of Directors qua SRA but his CO of M/s Ebix Singapore Pte. Limited. He submitted that the M/s Ebix Singapore Pte. Limited has taken steps regarding resolution of its insolvency. According to him, the order passed by the Hon'ble NCLAT, Principal Bench, New Delhi in Company Appeal (AT) (Insolvency) No. 167 of 2024 passed by it upholding the order of this Tribunal, in terms of which the resolution plan was submitted by SRA was approved is assailed before Hon'ble Supreme Court. Ld. Counsel appearing for CoC and RP submitted that the

appeal was preferred on 21.03.2024 and the objections were notified on 22.03.2024, but no steps have yet been taken to remove the defects qua the appeal. Nevertheless, the Ld. Counsel appearing for the SRA as also its CFO who are present in person submitted that the appeal will be listed before the Hon'ble Supreme Court, immediately on reopening.

In any case, the prayer made in the IA-5640/2023 is issuance of direction to SRA to implement the plan forthwith. May be, the SRA has assailed the order passed by the Hon'ble NCLAT (ibid) before Hon'ble Supreme Court, but as of now, the order passed by this Adjudicating Authority, passed on 09.10.2023, approving the plan submitted by SRA as also the order passed by Hon'ble NCLAT, upholding the said order are in operation. Indubitably, the appeal preferred by the Applicant filed on 21.03.2024 is still lying under objection with the registry of Hon'ble Supreme Court. In the wake, we are left with no option, but to pass the order in terms of the provisions of Regulation 39(9) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Resultantly, the SRA is directed to take steps to comply with order dated 09.10.2023 passed by this Adjudicating Authority, approving the plan, subject to outcome of the appeal preferred before Hon'ble Supreme Court.

The IA stands disposed of. No cost.

Contt. Pett.-55/2023: As has been noted hereinabove, in the order passed in IA-5640/2023, the CFO qua the SRA appeared in person and explained his stand and position qua the order passed by this Tribunal as upheld by Hon'ble NCLAT. According to him, the SRA has challenged the order passed by Hon'ble NCLAT before the Hon'ble Supreme Court and the appeal is likely to be listed after summer break(vacations).

As has been ruled by the **Hon'ble Supreme Court in Modern Food Industries (India) Ltd. and Anr. vs. Sachidanand Dass and Anr.** in such cases, where an application for stay is preferred and pending, before a Contt. Pett.-55/2023 is taken up for hearing, the stay application should be decided. In the present case, the Respondent (SRA) has preferred an appeal before the Hon'ble Supreme Court, which is yet to be taken up for hearing. In the wake, it would not be advisable to proceed further with the present proceedings, before the order is received from Hon'ble Supreme Court, in the appeal stated

to have been filed by SRA on 21.03.2024. In the wake the hearing in the present Contt. Pett-55/2023 is deferred to 22.07.2024. The personal presence of Mr. Robin Raina is not dispensed with.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)