

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 27
(IB)-639(PB)/2018

IN THE MATTER OF:

State Bank of India Petitioner/Applicant
v.	
M/s. Metenere Ltd. Respondent

Order Under Section 7 of Insolvency & Bankruptcy Code, 2016 CIRP

Order delivered on 15.02.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

(HEARING THROUGH PHYSICAL MODE & VC)

PRESENT:

For the Applicant	: Mr. P. Nagesh, Sr. Adv, Mr. S.P. Singh Chawla, Mr. Kunal Surhatia, Mr. Akshay Sharma, Mr. Shouryaditya, Advs. in IA-504/2024 Mr. Gaurav H. Sethi, Mr. Deepanshu Chandra, Mr. Rahul Pawar, Advs. in New IA-638/2024
For the RP	: Mr. Sunil Fernandes, Sr. Adv., Mr. Vaijayant Paliwal, Ms. Diksha Dadu, Mr. Arpit Paul, Advs.
For the CoC	: Mr. Ankur Mittal, Ms. Yakshi Sharma, Mr. Jayesh Gupta, Advs.

ORDER

IA-504/2024 & IA-638/2024

1. Heard, Ld. Sr. Counsel Mr. Sunil Fernandes appeared on behalf of the Resolution Professional.
2. Ld. Sr. Counsel Mr. P. Nagesh also appeared on behalf of the Applicant in IA-504/2024.
3. Ld. Sr. Counsel Mr. Arvind Nayyar also appeared on behalf of the Applicant in IA-638/2024.

4. Pending further consideration of the issues raised in these applications pleaded by Ld. Sr. Counsels for the Applicant that the RP should conduct himself in relation to the claims of the Applicants in terms of the decision of the Hon'ble NCLAT in the case of **“Sharavan Kumar Vishnoi Vs. Upma Jaiswal and Others” in the Company Appeal (AT) (Ins.) No. 371 of 2022 and in the case of “Kumari Durga Memorial Sansthan Vs. Shraavan Kumar Vishnoi and Others” in the Company Appeal (AT) (Ins.) No. 374 of 2022** vide order dated 05.04.2022 and more particularly para no. 7 & 8 which are extracted below:

“7. The ratio of the judgment of the Hon'ble Supreme Court as is culled out from paras 80 & 81 is that the Resolution Professional is not to take a decision regarding the Ineligibility of the Resolution Applicant. It has only to form its opinion because it is the duty of the Resolution Professional to find out as to whether the Resolution Plan is in compliance of the provisions of the Code or not the Resolution Professional can give his opinion with regard to each plan before the CoC and it is for the CoC to take a decision as to whether the plan is to be approved or not. In para 5 of the impugned order, we have noticed that the direction has been issued to the Resolution Professional to place all the Resolution Plans along with his opinion on the contravention or otherwise of the various provisions of law. The aforesaid direction clearly indicates that the Resolution Professional is free to submit his opinion with regard to contravention or otherwise of the various provisions of law. The aforesaid observations take care of the duties and responsibilities of the Resolution Professional. The Resolution Professional can give his opinion with regard to each Resolution Applicants and further steps are to be taken forthe CoC as per the direction issued by the Adjudicating Authority.

8. At this stage, we are of the view that, various issues regarding ineligibility or eligibility need not be gone into in this Appeal. It is only after the CoC's decision if any question

arise regarding eligibility that can be gone into before the Adjudicating Authority in accordance with the law.”

5. Prima facie, in view of the above decision of the Hon'ble NCLAT, Ld. Sr. Counsel for the RP stated that he will go through this decision and take instructions from the RP as to how he wishes to proceed in the matter and report to this tribunal on the next date of hearing.

6. It is further clarified by Ld. Sr. Counsel Mr. Sunil Fernandes for the RP that in relation to the end date for the submission of the Plan, the CoC is considering the matter to extend the date further, the said statement is recorded.

7. At request and with consent of the parties, list the matter for a physical hearing **on 20.02.2024.**

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(RAMALINGAM SUDHAKAR)
PRESIDENT

-sd-

(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)

Vinod Arora – 15.02.2024