

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

**Item No. 105**  
**(IB)-1671/ND/2019**

**IA-13/2024, IA-1727/2024, IA-3411/2023**

**IN THE MATTER OF:**

**M/s. Northern ARC Capital Ltd. ... Appellant**

**Versus**

**M/s. Five Core Electronics Ltd. ... Respondent**

**Under Section: 7 of IBC, 2016**

**Order delivered on 26.04.2024**

**CORAM:**

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

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

**PRESENT:**

**For the Applicant** : Adv. Saurabh Jain, Adv. Amor Nath, Adv. Chirag Bhati

**For the RP** : Mr. Manoj Kulshrestha

**For the Union Bank of India** : Ms. Ekta Choudhary, Mr. Divyank Dutt Dwivedi & Ms. Aditi Sharma

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORDER**

**IA-3411/2023:** The Ld. Counsel appearing for the Applicant in IA-3411/2023 i.e the RP submitted that the application was listed on 25.04.2024, but as the IA-13/2024 i.e. the application for resolution plan as also the other IA i.e. IA-1727/2024 was not listed on said date and he was appearing virtually, there remained some communication gap and the IA which he was seeking to withdraw in the wake of filing of IA-13/2024 i.e. the application for approval of Resolution Plan could be adjourned to 01.07.2024. In his submission, on account of pendency of IA-3411/2023, the IA-13/2024 cannot be taken up for hearing and the valuable time in considering the IA for approval of Resolution Plan would be lost. He could also draw our attention to order dated 15.01.2024 in terms of which in view of the statement made by Ld. Counsel appearing for the FC having 94% voting share, the RP was permitted to consider the Resolution Plan by resorting to challenge method provided in

Section 39(1)(A) of IBBI (CIRP) Regulations, 2016. The order dated 15.01.2024 passed in IA-3927/2023 reads thus:

**“IA-3927/2023:** *The Prayer made in the Application reads thus;*

- “a) Allow the Present Application;*
- b) Direct the Respondents to conduct voting on Resolution Plans.*
- c) Direct the Respondents, not to pursue an application for Liquidation till the conclusion of Voting process on the Resolution Plans.*
- d) Pass any other Order that this Hon’ble Tribunal may deem fit in the facts and circumstances of the case”.*

*The Ld. Counsels appearing for Union Bank of India submitted that she is appearing on behalf of Union Bank of India which is having 94.45% vote share in CoC and is duly authorised and competent to make statement on behalf of Coc’s/94.45% vote shareholder in CoC. Having made such a statement she submitted across the bar that earlier the valuation of assets of CD was done very low, but now they find that the Resolution Plan can be considered for voting by swiss challenge method. In view of the statement made by the Ld. Counsel appearing for Union Bank of India the Application is disposed of with the direction that the decision regarding the fate of the resolution plans presented before CoC by the RP should be taken by swiss challenge method within two weeks from today. It is made clear that if no decision is taken within the given time we would take up IA 3411/2023 filed under Section 33 (1) of IBC 2016 for disposal.*

*DGM Union Bank of India is directed to appear virtually and Ms. Ekta Choudhari Ld. Counsel appearing for Union of India should remain present physically in the Court along with the RP on the next date of hearing.*

*In view of the order passed in **IA-3927/2023, IA-3411/2023** List the matter on 05.02.2024.”*

In the wake of the aforementioned factual backdrop, on the plea raised by the Ld. Counsel appearing for the RP, the hearing qua IA-3411/2023 is advanced i.e. for today and the **IA is allowed to be withdrawn and is dismissed accordingly.**

**IA-1727/2024:** Issue notice to the Respondent returnable on 06.05.2024. The Applicant undertakes to serve notice upon the Respondent through all modes viz. registered post, speed post, courier service and E-mail. Affidavit of service be filed within one week. Reply, if any, may be filed by the Respondent within one week from the date of receipt of the notice. Rejoinder, if any, may be filed before the next date of hearing.

List the matter on 06.05.2024.

**IA-13/2024:** After some hearing, we deemed it appropriate to defer further hearing in IA-13/2024 on 29.04.2024, to enable the Ld. Counsel for the RP to ensure that the arrangement regarding funding to meet the contingent liability and the separate provision as to how the contingent liabilities would be met is filed within 4 days. Ld. Counsel would also ensure that the evolved performa/check list for convenience of Tribunal to ensure that the requirement to be satisfied for approval of the plan is prepared and uploaded on DMS within the given time.

List on 06.05.2024.

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

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