

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

Item No.106

New IA-5126/2023

In

IB-741(ND)/2021

IN THE MATTER OF:

M/s. Hiveloop Capital Pvt Ltd.

.... **APPLICANT/PETITIONER**

Vs.

M/s. Radiant Castings Pvtg Ltd.

.... **RESPONDENT**

SECTION

U/s 7 IBC code 2016

Order delivered on 27.09.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. P. Nagesh Learned Senior Advocate

For the Respondent : Advocate Usha Singh for Respondent No. 6
in IA no. 5126/2023.

Mr. Sandeep Bajaj, Mr. Vipul Jai,

Ms. Rajnandini Singh, Advocates for R-3.

Mr. Vikram S. Baid, Adv for R-2.

Mr. Adarsh Tripathi, Mr. Ajitesh Garg, Advocates.

ORDER

New IA-5126/2023

This application has been filed by one of the Assenting Unsecured Financial Creditor i.e. "Scorpion Nirman Private Limited" seeking clarification of order dated 30.08.2023, whereby the Resolution Plan has been approved by this Adjudicating Authority.

Mr. P. Nagesh Learned Senior Advocate appearing for Applicant has submitted that two plans were submitted, one for Rs. 27,00,00,000/- (Twenty Seven Crores) and the second one for Rs.

30,00,00,000/- (Thirty Crores). In the first plan, Respondent No. 3 “M/s Rosedale Developers Private Limited” assented to the plan whereas in the second plan which was for an amount of Rs. 30,00,00,000/- (Thirty Crores), the Respondent No. 3 has dissented.

Mr. P. Nagesh Learned Senior Advocate submitted that a question of law i.e.-

“whether the Respondent No. 3 who had assented to the first plan is correct in law and dissented the second plan for Rs. 30,00,00,000/- (Rupees Thirty Crores Only) and therefore can be treated as a dissenting Financial Creditor, has to be decided by this Adjudicating Authority.”

He also questioned the distribution of the amount w.r.t. the Unsecured Financial Creditor.

We have also heard the submissions of Mr. Adarsh Tripathi, Ld. Counsel appearing for the Resolution Professional, Mr. Sandeep Bajaj Ld. Counsel appearing for the Respondent No. 3 and Mr. Vikram Singh Baid, Ld. Counsel appearing for the Successful Resolution Applicant.

Mr. Sandeep Bajaj Ld. Counsel appearing for the Respondent No. 3 has submitted that the present application is not maintainable and CoC while approving the plan has rightly considered the Respondent No. 3 as Dissenting Financial Creditor.

During the course of the arguments, we have noticed that there is a discrepancy in the amount mentioned in Form-H and that in the Resolution Plan w.r.t. the Unsecured Financial Creditor submitted by the Successful Resolution applicant. The Resolution Professional is directed to clarify the same by filing an affidavit within two weeks.

Since an issue has been raised w.r.t. distribution of the amount w.r.t. the Unsecured Financial Creditor, we deem it appropriate to direct that the distribution with respect to Unsecured Financial Creditor be kept on hold till the next date hearing.

List the matter **on 10.10.2023** on the **top of the Board**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)