

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

Item No. 207
CP-762(ND)2023

IN THE MATTER OF:
ECL Finance Limited

... **Applicant/Petitioner**

Versus

Jai Bhagwan Bindal & Ors. (6)

... **Respondent**

Under Section: 95(1) of IBC, 2016 (CIRP)

Order delivered on 08.04.2024

CORAM:

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

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

PRESENT:

For the Respondent : Adv. Amit Dhall for R-1,3 and 4, Adv. J. Kiran
and Adv. Kamal Aggarwal

For the RP : Ms. J. Kiran on behalf of RP Mr. Kamal Aggarwal

For the Creditor : Adv. Pai Amit, Adv. Bhavana Duhoon

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

Mr. Amit Dhall, Ld. Counsel appearing for the Personal Guarantors i.e. Respondent Nos. 1, 3 and 4 submitted that the copy of the report of RP has not yet been made available to him. Ms. J. Kiran, Ld. Counsel appearing for the RP undertakes to make a copy of the Report available to Mr. Amit Dhall during the course of the day.

Reply to the Report by the said Respondents to be filed within one week from today. In the meantime, it would also be open to Respondent Nos. 2, 5 and 6 also to file their reply to the application, if any. It is made clear that irrespective of appearance of said Respondents of filing of reply by them, the proceedings qua them viz. Respondent Nos. 2,5 and 6 to set ex parte.

The Ld. Counsel appearing for the RP shall make a copy of this order available to Respondent Nos. 2, 5 and 6 by all prescribed modes viz. registered post, speed post, courier service and E-mail.

At this stage, when we had already dictated the order as above, the Ld. Counsel appearing for the Creditor submitted that IRP qua Respondent Nos. 1 and 3 have already been initiated in IB-489/ND/2022 and IB-488/ND/2022, thus in the wake of the provisions of Section 101 of IBC, 2016,

the present proceedings may not be continued against them (Respondent Nos. 1 and 3). In the wake, these proceedings are directed to be dropped in respect of the Respondent Nos. 1 and 3 and Mr. Amit Dhall would file reply only on behalf of the Respondent Nos. 4.

It goes without saying that the Creditor is entitled to resort to the remedies available to it regarding its claim against Respondent Nos. 1 and 3 in accordance with law. It is also made clear that if for any reason, the proceedings in IB-488/ND/2022 (Item No. 209, dated 08.04.2024) and IB-489/ND/2022 (Item No. 210, dated 08.04.2024) terminates prematurely, the Creditor i.e. ECL Finance Limited would be entitled to revive the present proceedings against Respondent Nos. 1 and 2.

List on 16.04.2024.

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

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