

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No. 102

**IA/283(AHM)2023 in**  
**IA 832 of 2022 in CP(IB) No. 40 of 2017**

**Order under Rule 11 of the NCLT Rules, 2016**

**IN THE MATTER OF:**

SREI Multiple Asset Investment Trust  
V/s  
ArcelorMittal India (P) Ltd. & Ors.

.....**Applicant**

.....**Respondents**

**Order delivered on : 17/03/2023**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

**-SD-**

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**-SD-**

**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Rajeev Kumar Sen/Stenographer

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-I**

**IA/283(AHM)2023 in**

**IA 832 of 2022 in CP(IB) No. 40 of 2017**

**IA/283(AHM)2023**

*[An application under Section 44 of the Evidence seeking recall of the order dated 21.02.2023 passed in IA 832 of 2022]*

In the matter between:

**1. M/s SREI INFRASTRUCTURE FINANCE LTD**

Acting through its shareholder,  
Mr. Vir Jai Khosla, Applicant No. 2.  
*Petitioner No. 1 having its office at :*  
Vishwakarma Building  
86-C Topsia Road (South)  
KOLKATA – 700 046  
Email of the shareholder :  
[virjaikhosla@gmail.com](mailto:virjaikhosla@gmail.com)

**2. Mr. VIR JAI KHOSLA**

D-328 Defence Colony  
NEW DELHI – 110 024  
Email : [virjaikhosla@gmail.com](mailto:virjaikhosla@gmail.com);

**..... Applicants**

**Versus**

**1. ARCELORMITTAL INDIA (P) LTD**

*Having its office at :*  
Smarkworks Corporate Park,  
Corporate Twin Towers, Tower A  
4th Floor, Sector 125  
Plot No. 1 & 2  
NOIDA – 201 301, U.P.  
Email : [java.joshi@arcelormittal.com](mailto:java.joshi@arcelormittal.com);

**2. DEVINDER SINGH ARORA**

Authorised Signatory of AMIPL  
in I.A. No. 245 of 2020  
in C.P. (IB) 40 of 2017  
Working for gain at :  
Smarkworks Corporate Park,  
Corporate Twin Towers, Tower A  
4th Floor, Sector 125

Plot No. 1 & 2  
NOIDA – 201 301, U.P.

Also at:

Plaza M-6, 6th Floor, Unit C & D,  
Jasola District Centre,  
NEW DELHI – 110 025

Email : [java.joshi@arcelormittal.com](mailto:java.joshi@arcelormittal.com)

**3. ARCELOR MITTAL NIPPON STEEL INDIA LTD** (earlier known as ESSAR Steels India Ltd)

Having its office at :

27TH Km, Hazira Road

Hazira,

SURAT – GUJARAT- 392 470

Email : [pankaj.chourasia@amns.in](mailto:pankaj.chourasia@amns.in); [aswaroop@luthra.com](mailto:aswaroop@luthra.com);  
[nbagga@luthra.com](mailto:nbagga@luthra.com);

**4. Mr. RAJESH PRABHAKAR RAKTATE**

Authorised Signatory of AMNSIL

in I.A. No. 245 of 2020

in C.P. (IB) 40 of 2017

Having its office at :

27TH Km, Hazira Road

Hazira,

SURAT – GUJARAT- 392 470

Also at:

2nd Floor, Birla Centurion,  
Pandurang Budhakar Marg,  
Worli Century Mills Compound,  
Mumbai – 400 030

Email: [pankaj.chourasia@amns.in](mailto:pankaj.chourasia@amns.in);  
[aswaroop@luthra.com](mailto:aswaroop@luthra.com);  
[nbagga@luthra.com](mailto:nbagga@luthra.com)

**5. Mr. DILIP OOMMEN**

Director

ArcelorMittal Nippon Steel India Ltd

AMNS House

AMNS Township

27th Km, Surat-Hazira Road

Hazira

SURAT – 394270

GUJARAT

Email : [dilip.oommen@amns.in](mailto:dilip.oommen@amns.in);  
c/o [pankaj.chourasia@amns.in](mailto:pankaj.chourasia@amns.in);

**6. Mr. SURESH JAIN**

CFO of ESIL (as it was then known,

now known as Arcelor-Mittal Nippon Steel India Ltd)

for FY 2016-17 and FY 2021-22]  
c/o Arcelor-Mittal Nippon Steel India Ltd  
Having its office at :  
27TH KM, Hazira Road  
Hazira  
SURAT – GUJARAT- 392 470

Also at :  
B-3002, 30th Floor,  
Plot CS No- 77, B wing,  
One Avighna Park,  
Mahadev Palav Marg,  
Curry Road,  
Parel  
MUMBAI - 400 012  
Email : c/o suresh.jain@amns.in;  
[pankaj.chourasia@amns.in](mailto:pankaj.chourasia@amns.in);

**7. Mr. RAJIV KUMAR BHATNAGAR**

(Director Projects)  
[Director of ESIL (as it was then known, now known as Arcelor-Mittal Nippon Steel India Ltd) for FY 2016-17 and FY 2021-22]  
c/o Arcelor-Mittal Nippon Steel India Ltd  
Having its office at :  
27TH KM, Hazira Road  
Hazira  
SURAT – GUJARAT- 392 470 :  
Also at;  
C2/11, Nand Niketan  
Essar Township,  
Hazira,  
SURAT - 394 270  
Email : c/o pankaj.chourasia@amns.in;

**8. Mr. MAHADEV IYER**

(Director Finance and CFO)  
[Director of ESIL (as it was then known, now known as Arcelor-Mittal Nippon Steel India Ltd) for FY 2016-17 and FY 2021-22]  
c/o Arcelor-Mittal Nippon Steel India Ltd  
Having its office at :  
27TH KM, Hazira Road  
Hazira  
SURAT – GUJARAT- 392 470  
Also at:  
109/110, Indira Apartments,  
Govandi Station Road,  
Deonar,  
MUMBAI - 400 088  
Email : c/o pankaj.chourasia@amns.in;

**9. Mr. PANKAJ SHIVNARAYAN CHOURASIA**

Director  
ArcelorMittal Nippon Steel India Ltd  
AMNS House, AMNS Township  
27th Km, Surat-Hazira Road  
Hazira, SURAT – 394270  
GUJARAT  
Email : [pankaj.chourasia@amns.in](mailto:pankaj.chourasia@amns.in);

**10. M/s M. M. CHATURVEDI & Co**

Chartered Accountants  
Statutory Auditors of ESSAR Steel India Ltd between 2016-2020  
24 Atlanta, Nariman Point  
MUMBAI – 400 021  
Email : [admin@mmcandco.com](mailto:admin@mmcandco.com);

**11. Mr. SATISH KUMAR GUPTA**

Resolution Professional of ESSAR Steel India Ltd  
having his address at :  
c/o Alvarez Marsal India (P) Ltd  
7th Floor, 703-704, Tower 'A'  
Peninsula Corporate Park  
Ganpatrao Kadam Marg  
Lower Parel (West)  
MUMBAI – 400 013  
Also at :  
Flat No. 17-12, Building No. 17  
Kohinoor City, Phase – II  
Off LBS Road  
MUMBAI – 400 070  
Email : [satishg196@yahoo.co.in](mailto:satishg196@yahoo.co.in);  
[satishg196@outlook.com](mailto:satishg196@outlook.com);

**12. Mr. KALYAN GHOSH**

**Director**  
Odisha Slurry Pipeline Infrastructure  
Ltd.,  
H. No 119, Ward No. 11  
Badahal Road  
Behind Indian Bank  
NH-6, Keonjhar – 758 001  
ODISHA  
Also at :  
A-3/304, Tower 3  
Silver City, Sector 93  
Noida, Distt. Gautam Budha Nagar  
U.P.  
Email : [kalyan.ghosh@arcelorMittal.com](mailto:kalyan.ghosh@arcelorMittal.com)

**13. Mr. SANJAY SHARMA**

Director  
Odisha Slurry Pipeline Infrastructure Ltd  
H. No 119, Ward No. 11  
Badahal Road,  
Behind Indian Bank  
NH-6, Keonjhar – 758 001  
ODISHA  
Email : Sanjay.sharma@arcelorMittal.com;

**14. Mr. HIDEKI OGAWA**

Director  
Odisha Slurry Pipeline Infrastructure Ltd,  
and Director, ArcelorMittal Nippon Steel India Ltd  
H. No 119, Ward No. 11  
Badahal Road  
Behind Indian Bank  
NH-6, Keonjhar – 758 001  
ODISHA  
Email : ogawa.eb6.hideki@jp.nipponsteel.com

**15. Mr. HIROSHI EBINA**

Director  
Odisha Slurry Pipeline Infrastructure Ltd,  
and Director, ArcelorMittal  
Nippon Steel India Ltd  
H. No 119, Ward No. 11  
Badahal Road  
Behind Indian Bank  
NH-6, Keonjhar – 758 001  
ODISHA  
Also at :  
D-1/39 2nd Floor  
Vasant Vihar, NEW DELHI – 110 057  
Email : ebina.gg6.hiroshi@in.nipponsteel.com

**16. Mr. HIRANMOY BISWAS**

(Nominee of IDBI Bank upto 27-11-2016)  
(Director of Arcelor-Mittal Nippon Steel India  
Ltd for FY 2016-17 and FY 2021-22)  
c/o IDBI Bank Ltd  
IDBI Tower, World Trade Center Complex,  
Cuffe Parade, Colaba,  
MUMBAI – 400 005  
Email : c/o [pankaj.chourasia@amns.in](mailto:pankaj.chourasia@amns.in);  
c/o [cmd@idbibank.co.in](mailto:cmd@idbibank.co.in); [ibkl0000135@idbi.co.in](mailto:ibkl0000135@idbi.co.in)

**17. Mr. ALOKE SENGUPTA**

Nominee Director of IDBI Bank Ltd on the  
Board of Directors of Arcelor-Mittal Nippon Steel India Ltd  
c/o IDBI Bank Ltd  
IDBI Tower, World Trade Center Complex,  
Cuffe Parade, Colaba, MUMBAI – 400 005  
Email : c/o cmd@idbibank.co.in; ibkl0000135@idbi.co.in

**18. ALVAREZ & MARSAL INDIA (P) LTD**

Acting through its Managing Director (India), Mr. Manish Saigal  
7th Floor, 703-704, Tower 'A'  
Peninsula Corporate Park  
Ganpatrao Kadam Marg  
Lower Parel (West)  
MUMBAI – 400 013  
Email : msaigal@alvarezandmarsal.com

**19. Mr. VIKRAM UTAMSINGH**

Managing Director of ALVAREZ & MARSAL INDIA (P) LTD  
7th Floor, 703-704, Tower 'A'  
Peninsula Corporate Park  
Ganpatrao Kadam Marg  
Lower Parel (West)  
MUMBAI – 400 013  
Email : vutamsingh@alvarezandmarsal.com

**20. Mr. VIVEK KAMRA**

Managing Director of ALVAREZ &  
MARSAL INDIA (P) LTD  
AND Interim Chief Restructuring Officer  
7th Floor, 703-704, Tower 'A'  
Peninsula Corporate Park  
Ganpatrao Kadam Marg  
Lower Parel (West)  
MUMBAI – 400 013  
Email : vkamra@alvarezandmarsal.com

**21. Mr. ASHISH CHHAWCHHARIA**

Resolution Professional of Odisha Slurry  
Pipeline Infrastructure Ltd  
Having his address at :  
10-C Hungerford Street, 5th Floor  
Near Birla High School  
Elgin, KOLKATA – 700 017  
Email : [ashish@bccoindia.com](mailto:ashish@bccoindia.com);  
[ashish.chhawchharia@in.gt.com](mailto:ashish.chhawchharia@in.gt.com);  
[rp.ospil@in.gt.com](mailto:rp.ospil@in.gt.com);

**22. GT RESTRUCTURING SERVICES LLP**

L-41, Connaught Circus  
NEW DELHI – 110 001

Also at :

Indiabulls Finance Center  
Senapati Bapat Marg  
Fitwala Road  
Lower Parel (West)  
MUMBAI – 400 013

Also at :

10-C Hungerford Street, 5th Floor  
Near Birla High School  
Elgin, KOLKATA – 700 017  
Email : ashish.chhawchharia@in.gt.com

**23. Mr. ADITYA KHANNA**

Grant Thornton India  
L-41, Connaught Circus  
NEW DELHI – 110 001

Also at :

10-C Hungerford Street, 5th Floor  
Near Birla High School  
Elgin, KOLKATA – 700 017  
Email : Aditya.khanna@in.gt.com

**24. Mr. SANJAY MISHRA**

Grant Thornton India  
L-41, Connaught Circus  
NEW DELHI – 110 001

Also at :

10-C Hungerford Street, 5th Floor  
Near Birla High School  
Elgin, KOLKATA – 700 017  
Email : Sanjay.mishra@in.gt.com

**25. Mr. SUMEET ABROL**

Grant Thornton India  
L-41, Connaught Circus  
NEW DELHI – 110 001

Also at :

10-C Hungerford Street, 5th Floor  
Near Birla High School  
Elgin  
KOLKATA – 700 017  
Email : Sumeet.abrol@in.gt.com

**26. SREI MULTIPLE ASSET INVESTMENT TRUST,**  
*acting through its sole trustee, NEELINA CHATTERJEE.*  
Further acting through:



M/s. TRINITY ALTERNATE INVESTMENT MANAGERS LIMITED (Formerly, SREI Alternate Investment Managers Limited)  
Having its Office at:  
Unit No 709, Merlin Infinite, 7th Floor, DN-51, Sector -V,  
Salt Lake City  
KOLKATA - 700 091  
Email: [shilpa.modi@taiml.co.in](mailto:shilpa.modi@taiml.co.in)

**27. Mr. SAPAN GUPTA**

Group General Counsel  
ARCELORMITTAL SA  
Having its office at :  
Berkeley Square House,  
London W1J 6DA  
United Kingdom  
Email : [sapan.gupta@arcelormittal.com](mailto:sapan.gupta@arcelormittal.com)

**28. Mr. LAKSHMI NIWAS MITTAL**

Chairman & CEO, ArcelorMittal SA  
24-26, Boulevard d'Avranches  
L-1160 Luxembourg  
Grand Duchy of Luxembourg  
Also resident at :  
Lakshmi Niwas  
22 Aurangzeb Road  
NEW DELHI – 110 011  
Email : [lakshmi.Mittal@arcelorMittal.com](mailto:lakshmi.Mittal@arcelorMittal.com)

**29. Mr. ADITYA MITTAL**

Director  
ArcelorMittal Nippon Steel India Ltd  
AMNS House, AMNS Township  
27th Km, Surat-27th Km, Hazira Road  
Hazira, SURAT – 394270  
GUJARAT  
Also resident at :  
Lakshmi Niwas  
22 Aurangzeb Road  
NEW DELHI – 110 011  
Email : [aditya.Mittal@arcelorMittal.com](mailto:aditya.Mittal@arcelorMittal.com)

**30. IDBI BANK LTD**

Having its Registered Office at:  
209A, Sarat Bose Road  
KOLKATA  
WEST BENGAL – 700 029  
Head office:  
IDBI Tower,

World Trade Center Complex,  
Cuffe Parade, Colaba,  
MUMBAI – 400 005  
Email : cmd@idbibank.co.in; ibkl0000135@idbi.co.in;  
Jitendra.joshi@idbibank.co.in

**31. ALLAHABAD BANK**

Acting through its Secretary  
Registered Office :  
2, Netaji Subhas Road, KOLKATA – 700 01  
Also at :  
1A, Ronaldshay Road,  
KOLKATA – 700 027  
Email : br.mumifb@allahabadbank.in;  
investors.grievance@allahabadbank.in

**32. CANARA BANK**

Acting through its Secretary  
Registered Office :  
112, J.C. Road, Bengaluru Karnataka – 560 002  
Also at :  
2nd floor, Saket Building,  
10/1/E Santi Vihar,  
Diamond Harbour Rd,  
Alipore,  
KOLKATA – 700 027  
Email : akpandey@canarabank.com; hosecretarial@canarabank.com;

**33. CENTRAL BANK OF INDIA**

Acting through its Secretary  
Registered Office :  
9th Floor, Chandermukhi,  
Nariman Point, MUMBAI – 400 021  
Also at :  
597 O-Block  
Nalini Ranjan- Sarkar Avenue,  
New Alipore  
KOLKATA – 700 053  
Email : cfbcbi@gmail.com; investors@centralbank.co.in

**34. CORPORATION BANK**

Acting through its Secretary  
Registered Office :  
Mangaladevi Temple Road,  
Mangaluru Karnataka – 575 001  
Also at :  
H4 Lakhmani Mansion,  
BM Sarani, New Alipore,  
KOLKATA 700 053

Email : cb0443@corpbank.co.in; cb1129@corpbank.co.in

**35. EDELWEISS ASSET RECONSTRUCTION Co. LTD**

(EARC TRUST – SC 233)

Edelweiss House, off CST Road, Kalina, Santacruz,  
MUMBAI – 400 098

Email : Srinath.narasimhan@edelweissfin.com;

Nivedita.shetty@edelweissarc.in

**36. HDFC BANK**

Acting through its Secretary

Registered Office :

HDFC Bank House

Senapati Bapat Marg

Lower Parel (West)

MUMBAI – 4000 13

Also at :

174 A, Ground Flr,

Block G, New Alipore,

KOLKATA – 700 053

Email : conrad@hdfcbank.com;

santosh.haldankar@hdfcbank.com

**37. ICICI BANK**

Acting through its Secretary

Registered Office :

ICICI Bank Tower,

Near Chakli Circle,

Old Padra Road

Vadodara - 390 007

Also at :

Alipore, 3-C,

National Library Ave,

Near Kothari Hospital,

KOLKATA – 700 027

Email : bihag.jani@icicibank.com;

companysecretary@icicibank.com

**38. INDIAN OVERSEAS BANK**

Acting through its Secretary

Registered Office :

Agri Business Consultancy Services, (ABC Services) Central Office, 6th  
Floor, Annex Building, 763, Anna Salai, CHENNAI - 600 002

Also at :

P 23a, 594, Tolasaria Sadan,

Diamond Harbour Road

Block O, New Alipore,

KOLKATA – 700 053

Email : iob0625@iob.in; iobmail@vsnl.com

**39. STATE BANK OF HYDERABAD**

Acting through its Secretary

Registered Office :

Gunfoundry,

Hybank Tower

HYDERABAD – 500 001

Also at :

P & SB Branch

173 Sarat Bose Road

KOLKATA – 700 029

Email : [mysbh@sbhyd.co.in](mailto:mysbh@sbhyd.co.in);

**40. STATE BANK OF INDIA**

Acting through its Secretary / Director

Project Finance SBU

Voltas House, 2nd Floor

23, J. N. Heredia Marg

Ballard Estate, Fort,

MUMBAI – 400 001

Having its Regional Office at :

24/1/1, Alipur Rd, Alipore

KOLKATA

WEST BENGAL 700 027

Email : [team2.61341@sbi.co.in](mailto:team2.61341@sbi.co.in);

[sbi.00001@sbi.co.in](mailto:sbi.00001@sbi.co.in);

**41. SYNDICATE BANK**

Acting through its Secretary

Registered Office :

Manipal – 576 106 KARNATAKA

Also at :

8 B, Alipur Rd,

Alipore,

KOLKATA – 700 027

Email : [br.5088@syndicatebank.co.in](mailto:br.5088@syndicatebank.co.in);

[coplan@syndicatebank.co.in](mailto:coplan@syndicatebank.co.in);

**42. UCO BANK**

Having its Registered Office at :

70A, 1st Floor, Block D,

New Alipore

KOLKATA - 700 053

Email : [mum.fcc@ucobank.co.in](mailto:mum.fcc@ucobank.co.in);

[hocompliance.calcutta@ucobank.co.in](mailto:hocompliance.calcutta@ucobank.co.in)

**GROUP III - OTHER LENDERS TO ESIL (BUT NOT TO OSPIL) :-**

**43. AXIS BANK**

Acting through its Secretary  
Registered Office :  
TRISHUL - 3rd Floor, Opp. Samartheshwar Temple,  
Law Garden,  
Ellisbridge,  
AHMEDABAD - 380 006  
Also at :  
No 60, Bankim Mukherjee Sarani,  
New Alipore,  
KOLKATA – 700 053  
Email : shareholders@axisbank.com

**44. BANK OF BARODA**

Acting through its Secretary  
Registered Office :  
Baroda House,  
Mandvi, BARODA – 390 001  
Also at :  
38/1E, Gopalnagar Rd,  
Alipore,  
KOLKATA – 700 027  
Email : gm.ops.ho@bankofbaroda.com

**45. BANK OF INDIA**

Having its Regional Office at :  
23-B, Ground Floor, Baker Road  
Alipore, KOLKATA – 700 027  
Email : Boi.neft@bankofindia.co.in;  
BOI.CallCentre@bankofindia.co.in

**46. DEUTSCHE BANK**

(Assignee from Bank of Baroda and IDBI Bank)  
Acting through its Secretary  
Registered Office :  
Deutsche Bank AG  
Corporate Headquarters in India Deutsche Bank House,  
Hazarimal Somani Marg  
Fort, MUMBAI - 400 001  
Also at :  
Brooke House,  
9, Shakespeare Sarani Road,  
Kankaria Estates,  
Park Street area,  
KOLKATA – 700 071  
Email : customer.care@db.com

**47. EXPORT-IMPORT BANK OF INDIA**

Acting through its Secretary  
Registered Office :  
Centre One Building,  
Floor 21,  
World Trade Centre Complex,  
Cuffe Parade,  
MUMBAI 400 005

Also at :

1, Park Street,  
Vanijya Bhawan, 4th Floor,  
KOLKATA – 700 016  
Email : ccg@eximbankindia.in;

**48. PUNJAB NATIONAL BANK**

Having its Regional Office at :  
Unit House P 140, Mani Aangan,  
Block B, New Alipore  
KOLKATA - 700 053  
Email : zokolkata@pnb.co.in

**49. SC LOWY PRIMARY INVESTMENTS LTD**

(assigned from HDFC Bank and AXIS Bank)  
Acting through its Secretary  
Registered Office :  
C/o Intertrust Corporate Services,  
One Nexus Way, Camana Bay,  
Grand Cayman,  
CAYMAN ISLANDS KY1-9005  
Email : info@sclowy.com

**50. STANDARD CHARTERED BANK**

Acting through its Secretary  
Registered Office :  
Standard Chartered Bank,  
1 Basinghall Avenue,  
LONDON - EC2V 5DD  
Also at :  
17, S.A, Nalini Ranjan Ave,  
Block A, Uttar Raypur,  
New Alipore,  
KOLKATA – 700 053  
Email : Customer.Care@sc.com

**51. THE BANK OF NEW YORK MELLON**

Acting through its Secretary  
Registered Office :  
225 Liberty Street, New York,  
NY 10286, USA

Also at :

BNY Mellon Centre  
160 Queen Victoria Street  
LONDON - EC4V 4LA,  
ENGLAND  
Email : Linda.McMahon@bnymellon.com

**52. UNION BANK OF INDIA**

Acting through its Secretary / Director  
MUMBAI – 400 001  
Having its Regional Office at :  
Alepee Court, 1st Floor,  
225C A J C Bose Road,  
KOLKATA – 700 017  
Email : rokolkata@unionbankofindia.com

**53. M/s SHARDUL AMARCHAND MANGALDAS**

(Legal Advisers to the COC of ESIL as well as OSPIL)  
Solicitors and advocates  
Acting through their Managing Partner, Mr. Shardul Shroff  
Express Towers, 23rd Floor,  
Nariman Point,  
MUMBAI – 400 021  
Also at :  
Anand Lok, 227  
A.J.C. Bose Road  
KOLKATA – 700 020  
Email: shardul.shroff@AMSShardul.com

**54. M/s CYRIL AMARCHAND MANGALDAS**

(Legal Advisers to the RP of ESIL)  
Solicitors and advocates  
Acting through their Managing Partner, Mr. Cyril Shroff  
Peninsula Chambers,  
Peninsula Corporate Park, GK Marg,  
Lower Parel,  
MUMBAI – 400 013  
Email: cyril@cyrilshroff.com;  
[cyril.shroff@cyrilshroff.com](mailto:cyril.shroff@cyrilshroff.com);  
[cam.mumbai@cyrilshroff.com](mailto:cam.mumbai@cyrilshroff.com);  
[l.viswanathan@cyrilshroff.com](mailto:l.viswanathan@cyrilshroff.com)

**55. MR. DHANANJAY KUMAR**

Partner, Cyril Amarchand Mangaldas  
Peninsula Chambers,  
Peninsula Corporate Park, GK Marg,  
Lower Parel,  
MUMBAI – 400 013

Email: [cyril@cyrilshroff.com](mailto:cyril@cyrilshroff.com);  
[cyril.shroff@cyrilshroff.com](mailto:cyril.shroff@cyrilshroff.com);  
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**....Respondents**

**In the matter of :**

**IA 832 of 2022**

*[An application under Section 340 of CrPC r.w. Rule 11 of the NCLT Rules, 2016 seeking prosecution for Perjury committed before this Tribunal (NCLT Ahmedabad Bench, Court-1) in terms of false affidavits filed in 2017-18 (IA 419 of 2017) and in 2020 (IA 245 of 2020)]*

**SREI MULTIPLE ASSET INVESTMENT TRUST**

**....Applicant**

**Versus**

**ARCEORMITTAL INDIA (P) LTD AND ORS.**

**....Respondents**

**IN**



**CP(IB) No. 40 of 2017**

*[An application under Section 7 of the Insolvency and Bankruptcy Code, 2016]*

**In the matter of**

**STATE BANK OF INDIA**

**....FINANCIAL CREDITOR**

**Versus**

**ESSAR STEELS INDIA LTD.**

**....CORPORATE DEBTOR**

**Order reserved on: 14.03.2023**

**Order pronounced on: 17.03.2023**

**Coram: Dr. MADAN B. GOSAVI, MEMBER (JUDICIAL)**

**KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

**Present:**

For the Applicant : Mr. Deepak Khosla, Advocate along with Mr. Rohan S. Nandy, Advocate  
: Mr. Monaal J Davawala, Advocate (for SMAIT)

For the Respondents : Mr. Nirupam Nanavati, Sr. Advocate along with Mr. Nachiket Dave, Advocate (for AMIPL i.e, R-1)  
: Dr. Abhishek Manu Singhvi, Sr. Advocate a.w. Mr. Nirag Pathak, Ms. Ruby Ahuja, Ms. Akriti Vora, Mr. Vishal Gehrana, Mr. Ashim Sood, Mr. Ashutosh Shukla, Mr. Varun Khanna Advocates (for R-3 i.e. AMNSIL)  
: Mr. Tushar Mehta, Solicitor General of India and Mr. Saurabh Soparkar, Sr. Advocate along with Mr. S. Biswas, Mr. Siddhant Kant, Mr. Parth Gokhale, Ms. Grishma Ahuja, Mr. Shalin Jani, Mr. Sidhant Kant Advocates for IDBI

Bank, ICICI Bank, Edelweiss, SBI and State Bank of Hyderabad)

: Mr. Navin Pahwa, Sr. Advocate a.w. Mr. Parth Shah, Advocate (for R-54)

: Mr. Gaurav Mathur, Advocate (for Administrator of SIFL)

: Mr. Ujas Patel a.w. Mr. Soham Banerjee, Advocates (for R-1, R-18)

: Mr. Vividh Tandon, a.w. Ms. Tanya Shah, Advocate (for R-19, R-20)

: Mr. Manav Gupta, Mr. Senu Nizar, Mr. Siddhant Kant, Mr. Varun Khanna, Advocates

### **ORDER**

1. This application is filed by the applicant under section 44 of the Indian Evidence Act, 1872 seeking recall of order dated 21.02.2023 in IA No. 832 of 2022 in Company Petition (IB) No. 40/(AHM) of 2017 on the ground that the said order dated 21.02.2023 has been obtained by the respondents by practice of fraud and is passed without jurisdiction.

2. The IA No. 832 of 2022 was filed by SREI Multiple Asset Investment Trust (**SMAIT**) before this Adjudicating Authority on or around 13.10.2022 against as many as 25 respondents to initiate the prosecution under various penal sections of Indian Penal Code by following the procedure laid down under section 340 of CrPC, 1973 for the perjury committed before this Adjudicating Authority in terms of false affidavits filed in 2017-18 (IA No. 419 of 2017) and in 2020 (IA No. 245 of 2020).

3. It is submitted that this Adjudicating Authority without issuing formal notice to the persons named as defendants/prospective accused instead adopted a procedure unknown to law, namely, it chose to hear learned senior counsels for some of the respondents in IA No. 832 of 2022; that such an approach is unconditionally, strictly prohibited, and on the

basis of these oral submissions (many of which were false, and worse, not supported by averments made by the respondents on affidavit on record before this Adjudicating Authority). This Adjudicating Authority chose to reject this application vide order dated 21.02.2023 which is sought to be recalled by way of this application.

4. It is submitted that this rejection of the application was by adopting a view that there was substance in the contentions of the Respondents that since Essar Steels India Limited (**ESIL**) had taken the stand in title suit no. 177 of 2016 to the effect that the pipeline was an asset of ESIL, and since the determination of title was still pending before the learned Civil Judge at Sealdah, for ESIL and the other respondents to have stated before this Adjudicating Authority that the pipeline, even during the Corporate Insolvency Resolution Process (**CIRP**) of ESIL, is an asset of ESIL which is not reflected on their part, much less the committal to criminal trial for perjury, leading to conclusions in paragraphs 17 and 35 of its order dated 21.02.2023 by this Adjudicating Authority.

5. It is submitted that the order dated 21.02.2023 is a nullity in law, and the applicant is entitled to file the present application under section 44 of the Indian Evidence, Act 1872 to seek recall of the order dated 21.02.2023 on multiple counts, as listed below:

I. A false statement was orally made across the bar by learned senior counsel appearing for ArcelorMittal Nippon Steel India Limited (**AMNSIL**) which is mentioned in paragraphs 17 and 38 of the order dated 21.02.2023 passed by this Adjudicating Authority to the effect that ESIL had taken the stand in the civil suit pending before the learned Civil Court at Sealdah that the pipeline belongs to ESIL because the cancellation deed dated 24.06.2016 had gone into effect as of 30.06.2016. This statement is not just false, but is so false that it warrants prosecution for perjury.

II. It has been falsely stated by the learned senior counsel appearing for AMNSIL that according to him, in fact, the entire Resolution Plan was submitted and approved by the Committee of Creditors (**CoC**) with the clear understanding that the dispute of the title of the slurry pipeline has been wrongly raised. This is a false statement apart from the fact that it is not based upon any statement made on affidavit on the record before this Adjudicating Authority. Furthermore, it does not lie in the mouth of the learned senior counsel appearing for AMNSIL to make such a statement on behalf of the members of CoC of ESIL.

III. A false statement was orally made by learned senior counsel appearing for AMNSIL to the effect that “it is the assertion of all the stakeholders involved in the CIRP of Essar Steel that there is no dispute about the title of the pipeline”. This statement is also false, and moreover, is not borne out from record, rather is contradicted by the record of this Adjudicating Authority, which perhaps through oversight has not been perused by this Tribunal while dictating the order dated 21.02.2023.

IV. A false statement was orally made by the learned senior counsel appearing for AMNSIL which is mentioned in paragraphs 10, 17, 30(I), and 35 of the order dated 21.02.2023 passed by this Adjudicating Authority to the effect that the Title Suit no. 177 of 2016 is still pending before the learned Civil Court at Sealdah. This statement is false, as the aforementioned suit was dismissed for non-prosecution on 09.01.2023, a fact surely known to AMNSIL.

V. It is also suppression of equally vital and material fact that Odisha Slurry Pipeline Infrastructure Limited (**OSPIL**) has filed an application dated 16.06.2021 before the learned Civil Court at Sealdah, praying for dismissal of the Title Suit filed by SREI Infrastructure Finance Limited (**SIFL**) on the grounds that as per order dated 02.03.2020 passed by the Adjudicating Authority at Cuttack,

the suit has been declared/directed as abated, and then another application had been filed subsequently on 07.03.2022 praying that the earlier application dated 16.06.2021 be expeditiously decided and the title suit be dismissed. Thereafter, in December 2022 because of the pendency of these proceedings, a third application was filed in conspiracy with respondent no. 57 i.e., Mr. Rajneesh Sharma seeking expeditious disposal of the application dated 16.06.2021 and also for dismissal of title suit for non-prosecution by SIFL, which came up for hearing on that date and was posted for final orders on 09.01.2023. There was no turning up on account of SIFL. Hence, the suit was dismissed for non-prosecution. Such statement which was made was a false statement which was made consciously and deliberately.

VI. Under section 340 of the CrPC, there is no jurisdiction to conduct a mini trial by adjudicating rival contentions. It is strictly prohibited and the Court or Tribunal that acts so, acts not only without jurisdiction but violates the law settled by the Hon'ble Supreme Court under Article 141 of the Constitution of India.

VII. This Adjudicating Authority has no jurisdiction to encourage committal of contempt of another court (High Court of Calcutta), especially in terms of finding delivered by this Adjudicating Authority vide its order dated 07.02.2023, where, in paragraph 64, 70, 72, it unequivocally held that the of the injunction is that there is a stay against operation of the Cancellation Deed dated 24.06.2016 and that, therefore, the pipeline continues to be the property of OSPIL.

VIII. This Adjudicating Authority has no jurisdiction to encourage committal of contempt of its own order dated 07.02.2018. While, paragraph 31 of the order dated 21.02.2023 clearly records a finding by this Adjudicating Authority that it is of the view that contempt has been committed by the Resolution Professional **(RP)** of ESIL, but the

Adjudicating Authority has chosen to remain a mute spectator which is actually giving benefit to the RP for committing contempt of itself.

IX. This Adjudicating Authority has no jurisdiction to conduct a review of the view adopted by this Adjudicating Authority in paragraphs 64, 70, 72 and 81 of its order dated 07.02.2018 passed in IA No. 419 of 2017.

X. This Adjudicating Authority has no jurisdiction to grant declaratory relief under section 340 of the CrPC which is precisely granted in paragraph 25, which is also a review of the order dated 07.02.2018 read with order dated 10.11.2020.

XI. This Adjudicating Authority has no jurisdiction to conduct a review of the view adopted by this Adjudicating Authority in its order dated 10.11.2020 passed in IA No. 245 of 2020.

XII. This Adjudicating Authority has no jurisdiction to conduct a preliminary enquiry before coming to a finding that prima facie, the offence of perjury appears to have been committed, and, moreover, the preliminary enquiry is to be conducted by a 3<sup>rd</sup> entity, and the purpose of the enquiry is for only assessing whether adequate evidence exists that shall ensure that it is expedient in the interest to commit to trial for an enquiry and not to decide whether an offence appears to have been committed and that too, by affording a hearing to the prospective accused through back door and that too not on affidavit.

XIII. The paragraphs 19 to 22 of the order dated 21.02.2023 clearly reveal a constructive breach of Audi Alterum Partum.

6. The application was listed in priority on the basis of the request made by the learned counsel Mr. Deepak Khosla appearing for the applicant. We heard him in detail. The pleadings made by him and the various rulings cited by him is on the issue of recall of an order which somehow has been

obtained through fraud. All that can be relevant if the decision given by us vide order dated 21.02.2023 indeed has been based on any fraudulent facts. Nevertheless we heard him patiently for the two consecutive days that to when one of us is demitting office on 17.03.2023 and little time is left for us to complete the other pending cases.

7. During the course of hearing, Dr. Abhishek Manu Singhvi, senior counsel appearing for one of respondents objected to the maintainability of the application on the ground that the applicants in IA No. 832 of 2022, to which the order dated 21.02.2023 relates to, were different from the applicant in the recall application. He pointed out that the applicant in IA No. 832 of 2022 was SREI Multiple Asset Investment Trust (**SMAIT**) acting through its sole trustee, Ms. Neelina Chaterjee, further acting through its investment manager Trinity Alternate Investment Managers Limited whereas the recall application under reference is filed by M/s. SREI Infrastructure Finance Limited (**SIFL**) being applicant no. 1 acting through its shareholder Mr. Vir Jai Khosla and having the “derivative rights” over SIFL, and Mr. Vir Jai Khosla himself being Applicant No. 2. Dr. Singhvi also argued and stated that even otherwise the various grounds taken by the applicants in this recall application can be challenged by way of an appeal in the appropriate forum and could not be the subject matter and basis for recall as the said order under reference is based on detailed facts as discussed therein in the context of the issue involved as to whether any case was made out for perjury against the various respondents named therein. He also pointed out that any such exercise of recall would amount to “review” of the order by this Adjudicating Authority which is not permissible. Dr. Singhvi also pointed out that various applications have been filed on the name of different applicants on the same very issue and that amounts to abuse of judicial process and burdening the Tribunal with frivolous litigations. Dr. Singhvi also submitted that heavy cost must be imposed on such applicants misusing the judicial process.

Learned senior counsel-cum-Solicitor General, Mr. Tushar Mehta also challenged locus of the applicant to file this case and also brought to our notice that SBI and other Banks were not party in IA No. 832 of 2022.

During the course hearing, Mr. Saurabh Soparkar, learned senior counsel also made certain submissions about non-maintainability of present application. Learned senior counsels Mr. Navin Pahwa and Mr. Nirupam Nanavati also made submissions about the non-maintainability of the application.

8. During the hearing of the case, Mr. Gaurav Mathur, learned counsel appeared on behalf of the administrator of SIFL and stated that SIFL is under CIRP and an administrator has been appointed by the RBI. He also stated that the administrator of the SIFL has not appointed Mr. Deepak Khosla, learned counsel to file any such recall application. Further, Mr. Monaal Davawala, learned counsel also appeared and stated that now he has been appointed to appear on behalf of SMAIT (the Applicant in IA No. 832 of 2022) and stated that Mr. Deepak Khosla is no longer a counsel for SMAIT now. He also stated that SMAIT has not come up for any such application for recall of the said order 21.02.2023. It was argued that on this count too, the recall application is not maintainable. Nevertheless, Mr. Deepak Khosla, the learned counsel argued that in the circumstances of the case any shareholder having derivative right over the company can lawfully file such application for recall of the order affecting his interest.

9. Nevertheless, we have given full thought over the issue. We are of the considered view that our order dated 21.02.2023 is not at all delivered/obtained on the basis of any fraud. The basic issue dealt in that order was whether there lies any case of perjury against the various respondents named therein and in the context we had made it very clear that there was no such case of perjury. We had carefully gone into the various facts that could be gathered from the various documents enclosed in that application and the relevant orders referred thereto. We have placed



those relevant facts in the body of the order at para 3. For ready reference, the same is reproduced hereunder:

*“..3. Before we proceed in the matter, it would be appropriate to place certain facts in the background of the matter involved. Some times in September 2013, the ESIL had constructed a 253 km pipeline between Dabuna to its pellet plant in Paradeep Orrisa for the transportation of Iron Ore Slurry. Following that on 17.01.2014, OSPIL was incorporated and then on 27.02.2015, ESIL and OSPIL executed a Business Transfer Agreement (**BTA**) whereby ESIL transferred its 253 km long slurry pipeline between Dabuna and Paradeep to OSPIL for a consideration of Rs 4000 crores. The equity shares of OSPIL were owned by the applicant company Srei Multiple Asset Investment Trust (SMAIT) and ESIL in the ratio of around 70% : 30%. The said slurry pipeline was then taken back through Right to Use Agreement (**RTUA**) dated 30.03.2015 on payment of monthly usages charges @Rs 600 crore per year.*

*The entire purchase consideration of Rs. 4000 crores was to be paid by OSPIL to ESIL as per the schedule of payment contained in clause 2.3 of BTA and that was on or before 30.06.2015. Further the clause 8.4 of the BTA also provides that if the buyer i.e. OSPIL fails or delays in making the payment on due dates, the seller i.e. ESIL will have right to exercise an option for transfer of Business Undertaking back to it. The OSPIL was to raise the required funds for payment of purchase consideration by raising equity capital contribution to the extent of Rs. 800 crores and Rs. 3200 crores by way of debt from banks and financial institutions. It appears that OSPIL was unable to make entire payment as per the given time schedule in BTA and had paid only Rs. 935 crores till 30.08.2015. Therefore, by addendum dated 30.08.2015 to the RTU Agreement, monthly usage charges were reduced in proportion to the percentage of purchase consideration paid by OSPIL at the end of respective months. The OSPIL could finally pay to the extent of Rs. 2457 crores and therefore, as per the RTU addendum dated 30.08.2015, the monthly usage charges were to be Rs. 368 crores per year.*

*Further, the details placed before us shows that the shareholders of OSPIL contributed around Rs 60 crores to its share capital. The OSPIL had raised a*

loan of Rs 321.60 crores from Srei Infrastructure Finance Limited (“**SIFL**”) and Rs. 501.01 crores from ESIL through compulsory convertible debendruces. The balance fund was to be raised through various banks (including IDBI) which were also the lenders to ESIL. The part of the loan from those banks was received and with that it could pay ESIL to the extent of Rs. 2457 crores. The OSPIL was in the process of raising further loans from those banks/financial institutions but, then on 30.01.2016, the RBI had issued a clarification to the banks stating that sale and lease bank transactions will be treated as an event of restructuring for the debt of the seller as well as the buyer. In view of that circular OSPIL could not raise further funds from the banks and inturn could not pay the balance amount to ESIL. Therefore, after due delebration with the lenders of both the parties, it was decided to unwind/cancel the BTA. The lender banks of OSPIL, also decided to exercise its “put option” on ESIL thereby, OSPIL’s pipeline asset together with its lenders principle loan amounts and investors principle amounts were to revert to ESIL. Following that, despite the objections raised by SIFL, the ESIL and OSPIL proceeded for execution of a cancellation deed dated 24.06.2016 whereby the aforesaid pipeline agreements stood cancelled, the slurry pipeline stood restored to ESIL together with OSPIL’s liabilities towards its lenders and investors.

Thereafter on 20.11.2016 SIFL filed a title suit No. 177 of 2016 before the Civil Judge at Sealdah (West Bengal), seeking a direction that the cancellation deed dated 24.06.2016 is void ab initio as if non-est, and that the pipeline be declared to be an asset of OSPIL. It’s plea for an ex-parte interim stay was rejected, on the grounds that the matter will be considered when defendents entered appearance. Following that on an appeal filed by the SIFL, the Hon’ble Calcutta High Court while granting interim relief, directed to maintain status quo with regard to alienation, transfer in respect of the said pipeline. The interim order is continued until the disposal of the appeal.

Following that Standard Chartered Bank and State Bank of India filed separate applications under Section 7 of the IBC, 2016 and CIRP was initiated against ESIL vide order dated 02.08.2017 of the Adjudicating Authority Ahmedabad Bench. During the CIRP the Resolution Plan of the ArcelorMittal India Private Limited (“**AMIPL**”) (R-1) was approved by the

*CoC and the same also got approval of the Adjudicating Authority vide order dated 08.03.2019. After the take over the name of ESIL is changed to ArcelorMittal Nippon Steel India Limited (“AMNSIL”) which is Respondent No. 3 in the present application.*

*Meanwhile, on 28.03.2018, the IDBI Bank also filed a Section 7 IBC petition against OSPIL before NCLT Kolkata. The proceedings were later transferred to the Adjudicating Authority Cuttak. On 15.05.2019 the application was admitted and CIRP was initiated against OSPIL. The AMIPL submitted its Resolution Plan in the OSPIL CIRP also and the same got approved by the CoC on 06.12.2019 and then by the Adjudicating Authority Cuttak vide order dated 02.03.2020.*

*It is noted that the successful resolution applicant AMIPL through its Resolution Plan had offered for infusing an amount of Rs 39,500 crores and had also proposed that it will work with the lenders of OSPIL to successfully resolved the issue relating to slurry pipeline, by way of acquisition of the outstanding debt of OSPIL and to ensure that unhindered usages of that asset was available for the business of the Corporate Debtor (ESIL). On 13.05.2019, the ArcelorMittal Group released a statement to the press clarifying that it would be infusing Rs 42,000 crores into ESIL being Rs 39,500 crores committed in its Resolution Plan and an additional Rs 2500 crores to “resolve the situation regarding OSPIL”.*

*Then following the initiation of CIRP in OSPIL as on 15.05.2019 i.e., after two days of its press release, the AMIPL inspite of its announcement to infuse additional amount of Rs 2500 crores in ESIL to resolve the situation regarding OSPIL, released another statement to the media that the proposed infusion of additional fund of Rs 2500 crores would rather be for “general working capital purposes”. Later AMIPL also gave its Resolution Plan in OSPIL and offered an amount of Rs 2400 crores approx. The Resolution Plan submitted by the AMIPL was approved on 06.12.2019 by the CoC of OSPIL and later on 02.03.2020 by the Adjudicating Authority Cuttak...”.*

In our order dated 21.02.2023, we have dealt with in details the complex facts and provisions of laws applicable thereto in detail. We had reached conclusion that the Adjudicating Authorities in earlier orders had taken

consistent view that the title of the slurry pipeline was in dispute in the civil suit pending before the Civil Court at Sealdah. We had also made it clear that with a view to enable the RP to proceed with CIRP of ESIL, which is a time-bound process, the Adjudicating Authority had clarified that there was no hindrance for potential resolution applicant for filing resolution plans in view of the right of ESIL to use slurry pipelines under Right to Use Agreement. For ready reference, our observations in the context as placed in para 31 and 35 of that order dated 21.02.2023 is also reproduced hereunder:

*“...31. So, the Adjudicating Authorities took consistent view that the title of the slurry pipeline is still in dispute in the Civil Suit pending before the Civil Court, at Sealdah. In view of the above, we have to see whether the respondents had made a false statement deliberately in judicial proceeding about the slurry pipeline, more so in the background of the facts as briefly narrated in para 3 above in this order. The OSPIL and ESIL had cancelled the BTA as well as RTU Agreements in view of the RBI’s clarification dated 13.01.2016 to the banks funding the transactions in the nature of sale and lease back. The banks had funded ESIL while it had constructed the slurry pipelines and had further advanced loan to OSPIL to pay the purchase consideration. Such funding was not in accordance with the RBI’s policy. For this reason, after the issuance of RBI’s letter dated 13.01.2016, OSPIL could not raise further funds from lender banks to pay the balance amount of consideration. The clause 8.4 of the BTA clearly provides that if, the buyer failed to make the payment then the business undertaking would be transferred back to the seller. The lender banks of OSPIL had also exercised their “put option” thereby, the entire slurry pipeline was to be transferred back to ESIL along with the principle amount of debt. The circumstances, led to the cancellation of the BTA. From the facts & material on record, we are of the prima facie view that the entire transaction appears to be an arrangement whereby ESIL could raise the funds for its requirement. It may not be a sale in the real sense, otherwise the usage charges of the slurry pipeline would not have to be reduced proportionally to the payments made by OSPIL to ESIL. The linking of usage charges to the amount paid as purchase consideration supports the view. Later during the CIRP of ESIL,*

*the RP had included the slurry pipelines as owned by ESIL based on the cancellation of BTA and RTU Agreements. As such that appears to be real position. But in view of the dispute raised by one of the investors namely SIFL and the pending proceedings in Civil Court, and also the interim relief order of the Calcutta High Court to maintain status quo with regard to alienation, transfer in respect of the said slurry pipeline, and with a view to enable the RP to proceed with CIRP of ESIL, the Adjudicating Authority had clarified that there was no hindrance for potential resolution applicant for filing resolution plans in view of right of ESIL to use slurry pipelines under RTUA. Our above observation is only for consideration of controversy at hand involved in this application. We are of the view that the resolution plans of AMPL in CIRP of ESIL as well as OSPIL has been consistent with the view taken by the Adjudicating Authority in Ahmedabad as well as in Cuttack. And as such the stand taken by the ESIL, its RP as well as AMNSIL (which is the new name of ESIL after take over in CIRP) or any of its officers/representative as regards to the ownership of slurry pipelines on cancellation of BTA cannot be taken as any false declaration before the Adjudicating Authority.”*

*“....35. So, the factual scenario as emerges as on today is that the suit for declaration of title of the slurry pipeline is still pending before the Civil Court at Sealdah. The Hon’ble High Court directed to maintain the status quo relating to the transfer, and alienation of the pipeline. We do not wish to enter into submissions advanced by both sides as to how the order of the Hon’ble Calcutta High Court to be interpreted and read. This Adjudicating Authority twice held that it is not within its jurisdiction to resolve the controversy about the disputed title of the pipeline. However, it was made clear to the RP of the ESIL to consider the pipeline as one of the assets available as per RTU for prospective resolution applicant. We may take into consideration the fact that the ESIL i.e., the corporate debtor has the right to use the pipeline. It appears from going through the voluminous material on record that the RP of ESIL took all efforts for the successful culmination of the CIRP of the ESIL by placing before the CoC of the ESIL the Resolution Plan as submitted by R-1. We accept the submissions made on behalf of the respondents that it is the assertion of the ESIL even as on today and even in the Civil Suit pending in the Civil Court, Sealdah that it is the title holder of*

*the slurry pipeline and it cannot be said to be a false declaration in the judicial proceeding. We hold that there is nothing wrong if the party to any proceedings who asserts certain facts and if said facts is not accepted by the Judicial Forum to be correct that does not mean that the parties asserting the facts commits perjury. If that logic is made applicable then every losing party in a judicial proceeding shall be held to have committed the offence of perjury. This cannot be the intention and interpretation of the law.”*

10. In our order dated 21.02.2023, we have noted the gist of oral submissions of learned senior counsel for AMNSIL. However, we make it clear that our order rejecting application is based on facts and material on record.

11. After having heard the learned counsel Mr. Deepak Khosla in detail and also taking note of the arguments advanced by Dr. Manu Singhvi, senior counsel and some of the other counsels who appeared on behalf of other respondents and after going through our order dated 21.02.2023 and the relevant records, we find that the order is based on correct fact and reasoning and is not at all based on any fraudulent statements made by any of the respondents or their representatives and as such that does not require any recall for our reconsideration on the matter.

12. In view of the above, the recall application is rejected.

13. The urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.

**-SD-  
KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

**-SD-  
DR. MADAN B. GOSAVI  
MEMBER (JUDICIAL)**