

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

C.A. 50 OF 2023

Under Rule 11 of NCLT Rules 2016

Infrastructure Leasing & Financial
Services Limited & others

...Applicant

V/s

The Union of India

... Respondent

In the matter of

C.P. No. 3638/MB/2018

Union of India

...Petitioner

V/s.

Infrastructure Leasing & Financial
Services Limited & others

... Respondents

Order delivered on: 07.02.2024

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances:

For the Applicant

:

Mr. Animesh Bisht a/w Ms.
Roma Bhojani, Advocates

For the Respondent : Mr. Aditya Sikka, Advocate

ORDER

Per: V.G. Bisht, Member (Judicial)

1. This Company Application CA 50/2023 is filed by Infrastructure & Financial Services Limited ("Applicant") in the Company Petition (IB) No. 3638 of 2018 ("Petition") seeking an order from this Tribunal granting approval to initiate closure of the following two entities forming a part of the Applicant Group in the following manner:
 - a. initiate winding up of IIML Fund Managers (Singapore) Pte Ltd, Singapore ("IIML Singapore"), the wholly owned subsidiary of IL&FS Investment Managers Limited ("IIML"), under the applicable laws of Singapore;
 - b. initiate winding up of Dighi Port Development Company Limited ("DPDCL") under Section 271 (a) of the Companies Act, 2013 ("Act").
2. It is submitted that on October 1, 2018, the Petitioner filed the captioned Petition before this Tribunal under Section 241(2) read with Section 242(2) of the Act inter alia praying that the then existing Directors of the Applicant be superseded by new Directors. The Tribunal vide its order dated October 1, 2018 suspended the then existing Directors of the Applicant; and appointed new Directors to the Board of the Applicant in place. On appeal against October 1 Order, the Hon'ble NCLAT, vide its order dated October 15, 2018, stayed, inter alia, coercive creditor and other action against the Applicant Group in larger public interest.

- 2.1 IIML Singapore is a part of the 133 Offshore IL&FS Group Entities as specified under the affidavit dated February 11, 2019, 2019 prepared on behalf of the Applicant and filed by the Petitioner. These Offshore entities including IIML Singapore were accordingly excluded from the purview of the October 15 Order vide the Hon'ble NCLAT's order dated February 11, 2019.
- 2.2 Pursuant to the directions of the Hon'ble NCLAT on February 4, 2019, the Applicant Group entities were categorized (for the testing period up to December 31, 2019), in terms of which, DPDCL has been classified by the Resolution Consultant as Red entities as specified under the brief note dated January 13, 2020 prepared on behalf of the Applicant and filed by the Petitioner.
- 2.3 In terms of the order passed by the Hon'ble NCLAT dated February 11, 2019, the resolution of all entities, including "Red" entities and Offshore entities of the IL&FS Group shall be in accordance with the Resolution Framework, subject to the supervision of Justice (Retd.) D. K. Jain, who was appointed to oversee the efforts of the New Board and approve resolution proposals.
- 2.4 By the virtue of the order dated March 12, 2020 passed by the Hon'ble National Company Law Tribunal, 55 domestic entities including DPDCL were excluded from the purview of the October 15 Order and their resolution was to continue as per the procedure suggested by the Petitioner which inter alia included the Resolution Framework and the procedures suggested in the February 2020 Affidavit where, amongst others, the resolution procedure such as closure/ termination/ liquidation under relevant laws for the 55 Applicant Group entities was set out.

- 2.5 IIML Singapore was primarily incorporated to raise and manage funds in Singapore. However, as the contemplated funds could not be raised, it was decided to either wind up IIML Singapore or to make an application to strike off the name of IIML Singapore from Accounting and Corporate Regulatory Authority, Singapore. The fund management license has also been surrendered. In view of the same, presently, as there is no sustainable source of revenue, it was resolved on November 29, 2022 that IIML Singapore ought to be voluntarily wound up.
- 2.6 DPDCL was incorporated as primarily with the objective of acquiring land for the development of Dighi Port and undertaking other project related activities that may be required to put the land in use for the development of Dighi Port. As per the funding requirements of the banks, the land in and around the proposed Dighi Port, that was acquired, was housed in an entity by the name of Dighi Port Limited and mortgaged to the lenders consortium and since then, DPDCL has had no operations or activities. DPDCL has been a dormant company with no activities and no assets.
- 2.7 In light of the same the requisite corporate authorisations including but not limited to the New Board approval and the respective Board approvals have been obtained in furtherance of initiating closure of IIMI. Singapore and DPDCL Pursuant to the Corporate authorisations received with respect IIMI. Singapore and DPDCL, the Applicant filed a consolidated memorandum of application and January 3, 2023 before Justice (Rend) D. K. Jain seeking approval for initiation of closure of IMI. Singapore and DPDCL under the applicable laws

- 2.8 By a letter dated January 6, 2013. Justice (Retd.) D. K. Jain accorded his approval for initiation of closure of IUML. Singapore under the applicable laws of Singapore and winding up EDPOCL under Section 771(a) of the Act, subject to the proposal being presented before this Tribunal for its approval.
3. Heard learned Counsel and perused the materials available on record.
4. It is the case of the Applicant that Justice (Retd.) D. K. Jain has accorded approval for initiation of closure of IIML Fund Managers (Singapore) Pte Ltd in accordance with the governing law of that country. In view of this we are of considered view that an approval of initiation of closure of IIML Fund Managers (Singapore) Pte Ltd can be granted and is hereby granted.
5. It is also stated that Justice (Retd.) D. K. Jain has also accorded approval for the winding up of Dighi Port Development Company Limited in terms of the approved framework for resolution of IL&FS group companies and the due procedure has been followed which has culminated into approval of Justice (Retd.) D. K. Jain. In view of this, we are satisfied that necessary resolution for winding of M/s Dighi Port Development Company Limited has been passed by the said Company and it is a fit case for initiating winding up of the said Company in terms of Section 271 of the Companies Act, 2013.
6. Accordingly, the C.A. 50/2023 is disposed of as allowed.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)