

## **Case Snippets**

**Volume 03, Number 18 (April 30, 2020)**

### **Ultra Tech Nathdwara Cement Ltd. Vs. Union of India & others.**

**(D.B. Civil Writ Petition No. 9480/2019) ( HIGH COURT JODHPUR)**

**Sec 7, Sec 31, of Insolvency and Bankruptcy Code, 2016 - Approval of resolution plan**

#### **Facts of the case :**

Pursuant to the order dated 25 July 2017 passed by the Kolkata bench of the National Company Law Tribunal in Company Petition (IB) No.359/KB/2017 under the terms of Section 7 of the IBC, CIRP proceedings were initiated against Binani Cements Limited.

Mr Vijay Kumar V. Iyer was appointed as the insolvency resolution professional (RP) of Binani. The RP collated and verified the claims filed by the creditors of Binani, including, *inter-alia*, by Central Goods and Service Tax Department, Govt. of India (Department) to the extent of INR 72.85 Crores.

The petitioner company was one of the resolution applicants in the CIRP and the resolution plan submitted by Ultra Tech was approved unanimously in the CoC Meeting.

The resolution plan was approved by the NCLAT vide order dated 14.01.2018. The Bank of Baroda being a financial creditor challenged the resolution plan affirmed by the NCLAT before Hon'ble the Supreme Court which affirmed the order of the NCLAT vide order dated 19.11.2018.



Pursuant to the SC Order, Ultratech took over the management and operations of Binani, fully implemented the terms of the Ultratech Plan and made payments to all the creditors of Binani (including statutory creditors)

Despite the resolution plan having attained finality and having been executed, the respondents herein have raised numerous demands from the petitioner for the period from April 2012 to June 2017 and interest upto 25.7.2017. Having made the full and final payment as proposed by the resolution professional, the petitioner addressed a letter dated 26.11.2018 to the respondents informing them of the payment of dues as admitted by the CIRP and reminded them that all remaining claims and proceedings stood extinguished in terms of the resolution plan. Hence this writ petition.

In this case Rajasthan High Court has observed that as per the amended provision of Section 31 of the IBC, the approved resolution plan has been made binding on the corporate debtor, its employees, members and all creditors including the Central Govt., any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is owed.

It was further observed that the respondents would be acting in a totally illegal and arbitrary manner while pressing for demands raised vide the notices which are impugned in this writ petition and any other demands which they may contemplate for the period prior to the resolution plan being finalized. The demand notices are ex-facie illegal, arbitrary and per-se and cannot be sustained. The writ petition was allowed.

