

Case Snippets

Volume 03, Number 31 (July 29, 2020)

SBER BANK Vs VARRSANA ISPAT LIMITED

[I.A.(IB) No. /KB/2020 In C.P. (IB) No. 543 /KB/2017 (NCLT KOLKATA BENCH) Order dated 22 nd July, 2020]

In the present case vide order dated 16/11/2017 CIRP was initiated against the corporate debtor. For want of a resolution plan, the CD was ordered to undergo Liquidation vide order dated 06/08/2019. While CIRP was initiated RP reported that there is FIR against one of the Corporate Debtor's group company, REI Agro Limited and its promoter/directors by CBI, BS & FC dated 26/10/2015 u/s 120-B, 420, 467, 468 and 471 of the IPC.Charge sheet dated 02/08/2017 was filed against REI Agro Limited and its promoter/directors wherein it was alleged that they had cheated the consortium of banks and committed offences punishable u/s 120B r/w 420, 467, 468 and 471 of the Indian Penal Code.

Provisional Attachment order No. 08/2017 dated 10/07/2017 was issued by the Respondent wherein the assets owned by the Corporate Debtor were attached alleging the assets acquired to be proceeds of crime as per Section 2(1)(u) of the Prevention of Money Laundering Act, 2002, considering that the Applicant Company was one of the group companies of REI Agro Limited.





The Ld. RP knowing the attachment, had filed an application before this Adjudicating Authority for de-attachment of assets of the Corporate Debtor but same was dismissed. In fact, RP went into appeal upto Supreme Court against the said order but it was dismissed there also.

RP filed present application under newly inserted Section 32A of the 'I & B Code' seeking permission to sell the assets of the CD which were attached by the respondent/ED.

NCLT held as follows:-

It was held that liquidator can proceed with the sale of the assets even if it is under attachment by the respondent, to continue the time bound process of liquidation under the provisions of the Code and upon completion of the sale proceedings the buyer can take appropriate steps to release the attachment. It appears to us that the attachment and confiscation of properties of a CD undergoing CIRP or liquidation become void under section 32-A of the Code.

