



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

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Ramkrishna Forgings Ltd. Vs. Ravindra Loonkar, RP of ACIL Ltd. & Anr.
Civil Appeal No.1527 OF 2022
Date of Supreme Court's Judgement: November 21, 2023

Facts of the Case: -

The Present Appeal is filled by M/s Ramkrishna Forgings Ltd. (hereinafter referred as 'Appellant') after being aggrieved by the order dated 19.01.22 passed by the Appellate Tribunal.

The CIRP application was filed by IDBI bank Ltd. against ACIL/CD which was admitted by the AA and the IRP was appointed (hereinafter referred as 'Respondent') by an order dated 16.10.18. The Appellant submitted a Resolution Plan which was negotiated and revised several times. Thus, the final Resolution Plan was submitted on 05.08.19 and approved by the CoC on 14.08.19 with majority of 88.56% votes. Accordingly, the Respondent filed an application under Section 30(6) of IBC before the AA, seeking approval of the Resolution Plan.

Later, the AA kept the approval of the Appellant's (Successful Resolution Applicant or SRA) Resolution Plan in abeyance and directed the Official Liquidator (OL) to provide exact figures/value of assets by an order dated 01.09.21. The Appellant filed an appeal before the Appellate Tribunal against the order dated 01.09.2021. The Appellate Tribunal dismissed the appeal vide an order dated 19.01.2022, while observing that an avoidance transaction of approximately ₹1000 Crores had come to light and the case justifies interference since figures of crores are involved. The Appellant filed an appeal before the Supreme Court against the order dated 19.01.22 passed by the Appellate Tribunal.

The Appellant submitted that the IBC has an inbuilt mechanism for valuation of assets of the CD which is provided under the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Therefore, appointment of an Official Liquidator for valuation, which is otherwise a creation of the Companies Act, 2013 is unwarranted. Further, AA cannot sit in appeal over commercial decision of the CoC. The AA can exercise its discretion in rare cases and order for re-valuation, but the same can't be justified in present matter as absolutely no reason has been given by the AA or the Appellate Tribunal for undertaking such exercise in respect of the assets of the CD, which is arbitrary and unjustified.



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Supreme Court Observations: -

The Apex court observed while placing its reliance on judgment pronounced in *Maharashtra Seamless Ltd v Padmanabhan Venkatesh (2020)* and *K Sashidhar v. Indian Overseas Bank (2019)* and said that the AA did not have sufficient grounds to solely rely on the argument that the proposed haircut in the debt was around 94.25%. Furthermore, the court was not convinced that the fair value of the assets has been projected in proper manner as the bid of the Appellant was very close to the fair value of the assets of ACIL. The Supreme Court also observed that the order of AA for revaluation of assets by the OL i.e., Ministry of Corporate Affairs, was unjustified.

Stricto sensu, it is now well-settled that the CoC holds the authority to decide how to handle the entire debt of the CD. The Resolution Plan submitted by the Appellant, including the financial aspects and upfront payments, had undergone repeated negotiations and gained approval from the CoC with a substantial majority vote of 88.56%. The court asserted that such commercial wisdom, backed by the CoC's approval, should not be casually questioned or interfered with.

The Supreme Court found a lack of detailed discussion in the orders, of AA and the Appellate Tribunal except for discrepancies in outstanding dues and the initial amount the Appellant was to contribute. The AA's decision to order revaluation by the OL was deemed 'novel path' and was not adequately justified. Notably, no objections had been raised or challenges made to the Resolution Plan during the approval process. The Appellate Tribunal had only suggested considering expert opinions when dealing with large financial figures.

Order/Judgement: The Supreme Court set aside both the order dated 01.09.21 passed by AA and impugned order dated 19.01.22 passed by the Appellate Tribunal and further directed the AA to pass appropriate orders in terms of this judgment.

Case Review: *Appeal allowed.*