

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 33 of 2019

IN THE MATTER OF:

M/s. Grid Infra Tech Pvt. Ltd.

...Appellant

Vs.

M/s. Hythro Power Corporation Ltd.

...Respondent

Present: For Appellant: - Mr. Anish Kumar, Advocate.

O R D E R

22.02.2019— The Appellant- 'M/s. Grid Infra Tech Pvt. Ltd.' filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 for initiation of the 'Corporate Insolvency Resolution Process' against 'M/s. Hythro Power Corporation Ltd.'- ('Corporate Debtor'). The Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi, by impugned order dated 11th October, 2018 referring an order passed by the Hon'ble Supreme Court adjourned the proceedings sine die, which reads as follows:

"ORDER

In pursuance of the order dated 08.10.2018, the Memorandum of Association along with Articles of Association has been filed. A perusal of the Clause 2& 3 of the moa show that the corporate

debtor is to act as a developer for power projects in private sector and to design, test and commission the electromechanical equipments and accessories of Hidrel thermal power projects. The matter appears to be covered by the order passed by the Hon'ble Supreme Court. It is in the aforesaid circumstances that given in connected matter we have deferred the order because Hon'ble Supreme Court has passed the following order:-

"Issue notice.

Heard the learned counsel appearing for the parties.

For the grounds stated in the Transfer Petitions, we allow transfer of W.P. (C) No. 20672-20676/2018 [Dharani Sugars & Chemicals Limited vs. Union of India & Ors.] pending before the High Court of Judicature at Madras, Special Civil Application No. 12492 of 2018 [Shipyards Association of India vs. Union of India & Ors.] pending before the High Court of Gujarat at Ahmedabad, Civil Misc. Writ Petition No. 18170 of 2018 [Independent Power Producers Association of India vs. Union of India & Ors.], Civil Misc. Writ

Petition No. 23181 of 2018 [Association of Power Producers & Ors. vs. Union of India & Ors.], Civil Misc. Writ Petition No. 23183 of 2018 [Prayagraj Power Generation Company Limited vs. Union of India & Ors.] pending before the High Court of Judicature at Allahabad, W.P. No. 16095 of 2018[The South Indian Sugar Mills Association-Tamil Nadu vs. The Reserve Bank of India] pending before the High Court of Judicature at Madras, Writ Petition (C) No. 7221/2018 [Vayam Technologies Limited & Anr. Vs. Union of India & Ors.], Writ Petition (C) No. 6463/2018 [All India Bank Officers Confederation vs. Union of India & Anr.] pending before the High Court Delhi at New Delhi to this Court.

Let the records of the cases be transferred without delay. The transfer petitions are allowed in the afore-stated terms. Status quo, as of today, shall be maintained in the meantime. WRIT PETITION (C) NO. 1086/2018: Issue notice. Petitions for final disposal on Wednesday, the 14th November, 2018”

In view of the above, the proceedings are adjourned sine die. Liberty granted to the petitioner to move

appropriate application as and when such an eventuality arises.”

2. Notices were issued on Respondents but in spite of service of notice, none has appeared.

3. Learned counsel appearing on behalf of the Appellant submitted that the case is pending before the Hon'ble Supreme Court relates to decision of the Reserve Bank of India. Writ petition were filed in different High Courts. Transfer petitions have been allowed in terms as mentioned in the order passed by the Hon'ble Supreme Court. The Hon'ble Supreme Court has directed to maintain status quo till the next date. The Hon'ble Supreme Court has not passed any specific order directing to maintain status quo with regard to all power generation companies.

4. However, in absence of the orders passed by the Hon'ble Supreme Court, this Appellate Tribunal is of the view that the Adjudicating Authority should not have adjourned the matter *sine die*, without discussing the issue pending before the Hon'ble Supreme Court.

5. In the circumstance, this Appellate Tribunal allow the Appellant to file an additional affidavit before the Adjudicating Authority enclosing the copies of the orders passed by the Hon'ble Supreme Court in the cases as referred to above and may also provide the present status of those cases. They will specifically state as to what are the issues involved in the writ petition(s) which have been transferred and whether they relate to

‘M/s. Hythro Power Corporation Ltd.’- (‘Corporate Debtor’) or in general with regard to all the ‘Hidel Thermal Power’. If such affidavit is filed along with orders passed by the Hon’ble Supreme Court, the Adjudicating Authority will take up the matter within fortnight and pass appropriate orders taking into consideration issues pending consideration before the Hon’ble Supreme Court.

The appeal stands disposed of with aforesaid observations. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

Ar/g