

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**PRINCIPAL BENCH**

**ITEM No. 5**  
**(IB)-449(PB)/2019**

**IN THE MATTER OF:**

Oriental Bank of Commerce ..... Petitioner/Applicant  
Vs.  
M/s. Piyush Colonisers Ltd. & Ors. .... Respondent

**Order under Section 7 of Insolvency and Bankruptcy Code, 2016 (CIRP)**

**Order delivered on 24.05.2023**

**CORAM:**

**JUSTICE RAMALINGAM SUDHAKAR**  
**HON'BLE PRESIDENT**

**SH. ATUL CHATURVEDI**  
**HON'BLE MEMBER (TECHNICAL)**

**(HEARING THROUGH PHYSICAL AND VC MODE)**

**PRESENT:**

For the Applicant : Mr. Siddharth Bhatli, Ms. Khyati Jain in 3987/21,  
Adv. Navneet Kumar, Mr. Sanchit Garga, Adv., Mr.  
Madhav Anand, Adv. Nikunj Jain  
For the Respondent : Mr. Siddharth Bhatli, Ms. Khyati Jain in 5924/22  
Ms. Usha Singh,  
For the RP : Mr. Abhishek Anand, Mr. Karan Kohli, Mr. Vaibhav  
Mendiratta, Mr. Sahil Chopra, Advs.  
For LICHFL : Mr. Sharad Tyagi, Mr. K. Gayatri, Ms. Anupriya  
Gupta Advs. in IA-3168/2020, IA-807/2021, IA-  
1738/2021  
For the EPFO : Mr. Rajesh Kumar, (SC), Adv. Mishal Vij  
For the BoB : Adv. Arun Aggarwal & Adv. Shivam Saini

**ORDER**

**IA-807/2021**

This application has been filed by LIC Housing Finance Limited (for short "LICHFL") claiming to be a secured creditor and seeking for the following reliefs:

- (i) Allow the appointment of an independent registered valuer for determination of the correct value of the land if the same is used for the purpose of group*

*housing project as well as other residential purpose;  
and/or*

- (ii)** *Direct the Resolution Professional to share the value of subject land determined under each valuation report obtained by the RP; and/or*
- (iii)** *Direct the Resolution Professional to provide the details of total no. of units in the project, booked units, the relevant date when each flats/units were booked and the details of the claims received from the respective home buyers under the project to be developed on the subject land; and/or*
- (iv)** *Direct the Resolution Professional to provide both the valuation reports of the Corporate Debtor on the basis of which the claim amount of Rs.14.17 Crores has been determined by the RP; and/or*
- (v)** *Modify the order dated February 2, 2021 recording the correct IA No i.e. IA 3168/2020 (instead IA 35/2020) and the statements given by the legal counsel of the Applicant that the resolution plan should not be approved till the disposal of IA 3168/2020 as prayed for in Para 1 of this Application: and/or*
- (vi)** *Pass such order or further order which this Hon'ble Adjudicating Authority may deem fit, proper and just under the circumstances of the case.*

2. The primary reason for filing this application is to challenge the valuation done by two IBBI registered Valuers appointed by the RP as approved by the COC in terms of Regulation-35 of the CIRP Regulations.

3. On this premise to give a quietus issue, this Tribunal passed an order on 06.03.2023 which reads as follows:

**“IA-3168/2020, IA-807/2021, IA-1738/2021**

*Ld. Counsels for the parties are present.*

*Ld. Counsel Mr. Abhishek Anand appeared on behalf of the Resolution Professional and stated that the valuer appointed by this court namely Mr. Ankur Goel has refused to do the valuation exercise. Ld. Counsel Mr. Sharad Tyagi appeared on behalf of the LIC Housing Finance Limited, he also confirmed the same.*

*In view of the above, we direct the Ld. Counsel Mr. Abhishek Anand for the RP to file a memo so that the appropriate proceedings could be taken with respect to the refusal made by the Ld. Counsel Mr. Ankur Goel.*

*In the meanwhile, we appoint M/s. Valecs Ecotech Private Limited (Registration No.: IBBI/RV-E/02/2022/178, Address: 303, Plot No.1, 3rd Floor, Community Centre, Ashok Vihar, Phase-2, North West, Delhi-110052, e-mail i.d.: valecsecotechpvt@gmail.com) to carry the valuation exercise forward.*

*At the request, list the matter along with all the pending applications for a physical hearing on 11.04.2023.”*

4. Pursuant to this order, the valuer i.e. “M/s. Valecs Ecotech Private Limited” undertook the valuation and submitted a report

along with an application bearing IA-2530/2023 dated 27.04.2023. That report is taken on record.

5. Thus, the issue raised in Prayer-(i) by the applicant becomes redundant because the new valuer has been appointed and his report is on record.

6. Pursuant to Prayer (ii), (iii), (iv), these prayers will become relevant as and when IA-3168/2023 is decided on merits.

7. Pursuant to Prayer (v) can be pursued by the applicant as and when IA-3168/2023 is decided on merits.

8. In view of the above, all the reliefs have now become redundant, the **IA-807/2021** stands **disposed of**.

### **IA-3168/2020**

This application has been filed seeking the following reliefs:

- (i) Direct the Resolution Professional to apprise the COC that the approval of any resolution plan by COC shall be subject to the disposal of this application by the Hon'ble Adjudicating Authority;*
- (ii) Direct the Resolution Professional to consider and accept the claim submitted by the Applicant based on the documents already provided by the Applicant to the RP and treat the applicant as a secured financial creditor entitled to all rights and privileges of a secured financial creditor, thereby to reconstitute the Committee of Creditors within 7(Seven) days from the date of disposal of this Application;*
- (iii) Direct that the RP is not empowered to call for such documents and information which are not relevant for the verification of claim filed by the Applicant with the RP;*

- (iv) Pass any such other and further orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present matter.*

**IA-1738/2021**

This application has been filed seeking the following reliefs:

- (i) Allow the present application; and/or*
- (ii) Grant stay on the Resolution Plan to be approved by the COC and / or the Hon'ble Adjudicating Authority; and/or*
- (iii) Direct the Resolution Professional to prove a copy of the resolution plan(s) along with the valuation reports to the Applicant; and/or*
- (iv) Pass such order or further order which this Hon'ble Adjudicating Authority may deem fit, proper and just under the circumstances of the case.*

Brief facts of the aforesaid two IAs are as under:

- 1.** On 29.03.2016, the LIC Housing Finance Limited (for short "LIC HFL") sanctioned the term loan of Rs.140 Crores to one M/s. SRS Real Estate Limited and SRS Retreat Services Limited and the sanction was granted on 29.03.2016.
- 2.** In regard to this sanction, the Corporate Debtor in the present case gave a Corporate Guarantee and the value of which was restricted to the value of the mortgage.
- 3.** It is to be stated that the borrowers in this case i.e. SRS Real Estate Limited and SRS Retreat Services Limited are neither

the group companies of the Corporate Debtor nor also sister companies of the Corporate Debtor.

**4.** Based on the sanction of term loan dated 29.03.2016, certain amounts were disbursed to the borrowers namely SRS Real Estate Limited and SRS Retreat Services Limited. The quantum is not relevant.

**5.** On 31.03.2016, third party guarantee documents and mortgage of 10.9448 acres of land and the structure of the CD were executed by M/s. Piyush Colonisers Ltd.

**6.** On 01.04.2017, the term loan granted to the SRS Real Estate Limited and SRS Retreat Services Limited were classified as NPA.

**7.** On 29.12.2017, the Corporate Guarantee provided by the CD was invoked by the notice dated 29.12.2017.

**8.** On 16.02.2018, notice under SARFAESI Act was served to the Corporate Debtor.

**9.** In so far as the Corporate Debtor is concerned, Oriental Bank of Commerce initiated the CIRP Proceedings against the present Corporate Debtor. The CIRP proceedings were commenced on 13.09.2018. The public announcement of claim invitation was made on 03.02.2018. Form – C was filed by LIC HFL on 12.10.2018. The RP sent an email dated 01.11.2019.

**10.** Since the documents and clarification sought by the RP was not provided by the Applicant – LIC HFL, the RP was forced to reject the claim by way of an email dated 28.05.2020.

- 11.** Thereafter, the Applicant – LIC HFL filed an IA-374/2020 and on 24.11.2020 the stay was granted by this Tribunal.
- 12.** In the meanwhile, the RP admitted the claims of other creditors on 03.12.2020 and at the behest of the RP, this Tribunal passed another order dated 02.02.2021 modifying the order of Stay and permitted the COC to proceed with the resolution process.
- 13.** Thereafter, on 13.04.2021, this Tribunal granted stay directing the COC not to proceed with the resolution Process.
- 14.** Thereafter, in the meanwhile, the RP sought for and obtained two valuation reports from the IBBI Recognised Valuers and the applicant was aggrieved by such valuation; and thereafter, this Tribunal, granted an interim order on 24.11.2020 directing not to proceed further in the matter pending the valuation issue.
- 15.** That came to be resolved in IA-807/2021, which has now been disposed of today, whereunder the third valuation report of the valuer, appointed by this Tribunal, has been taken on record and the IA has been disposed of.
- 16.** The claim of the LICHFL, that invocation of the corporate guarantee would entitle them to be treated as a Secured Financial Creditor.
- 17.** It is the stand of the RP that the LICHFL has not made any disbursement qua the Corporate Debtor; and therefore, therefore it cannot be treated as the secured Financial Creditor.

**18.** On this issue, there are two decisions of the Hon'ble Supreme Court. One is "*Anuj Jain Interim Resolution Professional for JP Infratech Limited Vs. Axis Bank Limited & Ors.* reported in "2020 (8) SCC 401 Para – 47.1, 47.2, 48 and 50.03."

**19.** The learned Counsel for the LIC HFL referred to the decision of "*Laxmi Pat Surana Vs. Union Bank of India* reported in "*Civil Appeal No. 2734/2020*" dated 26.03.2021.

**20.** In the above circumstances, we direct the RP to verify and reconsider the claim and treat the applicant in accordance with the provisions of the Code and intimate the same to the applicant so as to enable him to work out his remedy if still aggrieved. Interim orders granted in this application stands vacated.

**21.** Accordingly, these applications were **disposed of**.

**IA-4209/2021, IA-4412/2021 & IA-595/2022**

Ld. Counsel Mr. Abhishek Anand appears and states that these applications have become infructuous.

In view of the statement made by the Ld. Counsel Mr. Abhishek Anand, these application stand **disposed of**.

**IA-2530/2023**

This application has been filed for taking on record the valuation, which is taken on record.

Accordingly, this application stands **disposed of**.

**IA-4209/2021**

When the matter was called, none appeared from the side of the petitioner.

In the presence of the Ld. Counsel Mr. Abhishek Anand **IA-4209/2021** stands **dismissed for non prosecution.**

**IA-4705/2022 & IA-4706/2022**

These applications have been filed by a person claiming to be a share holder of the Corporate Debtor, who is not a part of the CoC. As to how we came into the knowledge of proceedings of the CoC has not been disclosed. Hence, we find no reason to entertain this application.

Accordingly, applications stands **dismissed.**

**CA-2861/2020, IA-2471/2020, IA-2024/2020, IA-2423/2021, IA-2425/2021, IA-2460/2021, IA-3303/2021, IA-5924/2022, IA-1298/2022, IA-3538/2020, IA-3539/2020, IA-1106/2022, CA-2346/2019, IA-2676/2020, IA-4243/2020, IA-2752/2020, IA-2399/2022, IA-2480/2020, IA-2476/2020, IA-2484/2020, IA-2314/2020, IA-3761/2020, IA-2168/2021, IA-3025/2021, IA-3338/2021, IA-3115/2021, IA-1253/2023, IA-3987/2021**

List the matter **on 05.07.2023.**

-Sd-

**(RAMALINGAM SUDHAKAR)  
PRESIDENT**

-Sd-

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

ANAND DUBEY