

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 139/2023
(IA Nos. 464, 465, 466/2023)
(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 12/05/2023 in
IA(IBC)/627/CHE/2023 in IBA/483/2020, passed by the ‘Adjudicating
Authority’, (National Company Law Tribunal, Chennai Bench - I,
Chennai)

In the matter of:

R. Sarabeshwar & Anr. ...Appellants
V
Krishnasamy Vasudevan
(Resolution Professional of
M/s Consolidated Consortium Limited) & 2 Ors. ...Respondents

Present :

For Appellants : Mr. P.S. Raman, Sr. Advocate with
Ms. K. Jayasudha, Advocate

For Respondents : Mr. E. Om Prakash, Sr. Advocate for Mr. K.
Moorthy, Advocate for R-1
Mr. M L Ganesh, Advocate for R-2
Mr. T. Ravichandran, Advocate for R3.

ORDER

(Virtual Mode)

24/05/2023: During the course of hearing, Counsel for the Appellant referred to an order dated 07.03.2023, which read as under:

“Order

*The Applicant is led by the Ld. Senior Counsel Mr.
P.S. Raman and State Bank of India is represented by*

the Ld. Counsel Mr. M.L. Ganesh through video conferencing made.

IA/1484(CHE)/2022 has been filed with the following reliefs:-

- “a. Treat this Petition as urgent.*
- b. direct the Respondents to take decision on the proposal submitted by the Applicants under Section 12A submitted by the Applicants on 31.10.2022 in continuation of their proposal dated 09.05.2022 and revised proposal dated 11.08.2022; and*
- c. pass such further and other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and this render justice.”*

An affidavit has been filed by State Bank of India vide SR. No. 739 dated 15.02.2023.

Considering the prayers in the Application and the averments made in the affidavit of main lender State Bank of India, this application is disposed.

We direct the CoC and the RP to take actions as are available under the Code and attendant Regulations.

Accordingly, IA/1484(CHE)/2022 stands disposed off.”

2. He further referred to the Minutes of the Joint Lenders Meeting dated 27.04.2023 in which the decision was taken that *“It is reiterated that in principal approval of at least 90% of Lenders (by value) on 12A plan will be*

required to enable Lenders approach their respective Competent Authority for approval of plan”

3. It is submitted that this Appellate Tribunal passed an order on 17.05.2023 which read as under:

“Arguments are continuing but the Court time is over. Keeping in view the urgency involved in this matter, it is hereby ordered to be listed on the next working day (during vacation) i.e., 24th May, 2023.

The question of Interim Order is kept open but till then the Liquidator is directed not to make publications.”

4. The meeting of the Joint Lenders Meeting (JLM) was convened on 18.05.2023 in which the earlier proposal of 90% taken in the meeting dated 27.04.2023 was reaffirmed.

5. Sh. M.L. Ganesh has submitted that since the approval of the higher authority of all the five banks (Members of the JLM) is yet to be taken and that he requires some time to file an affidavit in that regard. At the same time, Senior Counsel Mr. P.S. Raman submitted that if the proceeding, in regard to liquidation is not stayed, then the Appellant would suffer irreparable loss.

6. It is also pertinent to mention that the Liquidator has also filed his status report vide Diary No. 962 of 2023.

7. Keeping in view the aforesaid facts and circumstances, the hearing of this case is deferred to **14th June, 2023**.

8. Counsel appearing on behalf of the JLM shall file the necessary affidavit on or before the next date of hearing with an advance copy to counsel for the parties and till then the parties shall maintain status quo in this matter.

**[Justice Rakesh Kumar Jain]
Member (Judicial)**

**[Shreesha Merla]
Member (Technical)**

PKS/MD/SK