

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/56(KB)2019
IA(I.B.C)/1826(KB)2023, IA(I.B.C)/606(KB)2023,
IA(I.B.C)/594(KB)2023, IA(I.B.C)/631(KB)2023,
IA(I.B.C)/897(KB)2023, IA(I.B.C)/733(KB)2023,
IA(I.B.C)/909(KB)2023, IA(I.B.C)/1033(KB)2023,
IA(I.B.C)/124(KB)2023, IA(I.B.C)/1122(KB)2022,
IA(I.B.C)/1369(KB)2022, IA(I.B.C)/1567(KB)2023,
IA(I.B.C)/1640(KB)2023, IA(I.B.C)/1651(KB)2023,
IA(I.B.C)/1750(KB)2023, IA(I.B.C)/1406(KB)2023

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI ARVIND DEVANATHAN**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 23RD NOVEMBER, 2023, 10:30 A.M

IN THE MATTER OF	STATE BANK OF INDIA VS SIMPLEX PROJECTS LTD
UNDER SECTION	IBC UNDER SEC 7

Counsel/Authorised Representative appeared physically/through video conference:

For R1/RP in IA/1826/2023 : Ms. Kanishka Prasad, Adv.
For CoC : Mr. Aditya Vikram Singh, Adv.
Mr. Dwaipayan Basu Mallick, Adv.
Ms. Swita Chakraborty, Adv.
Mr. Wasim Akram, Adv.
Ms. Shreya Chandhok, Adv.
For Sudarshan Das Mundhra : Mr. Ratanko Banerji, Sr. Adv.
Mr. Rishav Banerjee, Adv.
Mr. Keshav Tibarewalla, Adv.
For respondent in IA/909/2023 : Mr. Varun Kothari, Adv.
Ms. Niharika Singh, Adv.

ORDER

1. Ld. Counsel for R1/RP present. Ld. Counsel for the CoC present. Ld. Senior Counsel along with Ld. Counsel for Sudarshan Das Mundhra present. Ld. Counsel for the respondent in IA(IBC)/909(KB)2023 present.

2. **IA(IBC)/1826(KB)2023**

This IA has been filed by the applicant praying for the following reliefs:

- (a) *Direct the Respondent No.1 to withdraw the Liquidation Application;*
- (b) *Extend the CIRP period of the Corporate by 30 days from the date of passing of the order in this Application and direct the Respondent No.1 to extend the voting lines to enable the CoC to vote on the Resolution Plan after considering the Addendum submitted by the Applicant;*
- (c) *Direct the Respondent No.1 to withdraw its letter dated 6 October 2023 returning the Earnest Money Deposit submitted by the Applicant of INR 50,00,000/- (Indian Rupees Fifty Lakhs only);*
- (d) *Such further orders or directions be passed as this Hon'ble Tribunal may deem fit and proper;*

The applicant has filed a supplementary affidavit affirmed on 06/11/2023 seeking the following reliefs in addition to the prayers and reliefs sought in the aforesaid application:

- (a) *Direct the Committee of Creditors to re-vote on the Resolution Plan of the Applicant after taking into account the addendums dated 21 September, 2023 and 27 October 2023 increasing the value of the resolution plan to over INR 228 Crores which is more than 9 times the liquidation value of INR 26 crores;*
- (b) *Extend the CIRP period of the Corporate Debtor by 30 days from the date of passing of the order in this Application after excluding period between 27 September 2023 to 20 October 2023 as time spent under judicial intervention; and*
- (c) *Such further orders or directions be passed as this Hon'ble Tribunal may deem fit and proper.*

3. Brief facts of the case are as follows:

- (a) The applicant, erstwhile promoter of the Corporate Debtor, a MSME Unit, has submitted an addendum dated 21st September 2023 to its resolution plan to the

- (b) Committee of Creditors (“CoC”) being respondent no. 2 to 12, which has not been considered while voting on the resolution plan.
- (c) Therefore, the applicant had filed an application being IA(IBC)/1630(KB)2023 before this Adjudicating Authority seeking directions on the CoC to consider the Addendums submitted by the Applicant while voting on the resolution plans and the said application was ‘reserved for orders’ on 27/09/2023. However, on 29/09/2023, the respondent no. 1, Resolution Professional, has filed a liquidation application being IA(IBC)/1750(KB)2023 seeking liquidation of the Corporate Debtor and on 06/10/2023 has returned the earnest money deposit of the applicant.
4. Ld. Senior Counsel for the applicant submits that the respondent no.1 has filed the liquidation application without considering resolution plan read with the addendum submitted by the applicant 21st September, 2023 for a value exceeding 8 times the estimated liquidation value of the Corporate Debtor and that the liquidation option is a last resort. Moreover, the respondent no.1 has filed the Liquidation Application while the order was reserved.
5. Ld. Senior Counsel for the applicant further submits that the respondent no.1 has failed to provide the CoC with reasonable time to consider the Addendum submitted by the applicant; as such it is necessary and just that the time period for completion of CIRP of the Corporate Debtor be extended by a period of 30 days.
6. Reply affidavits were filed by R-1 and R-8. The RP submits that the CoC at its 36th Meeting held on 02/11/2023, after due deliberation on the proposed addendums to resolution plan opined that the matter will be considered after appropriate directions given by this Adjudicating Authority.
7. We have heard and Ld. Senior Counsel for the applicant and the Ld. Counsel for the RP. We feel that in order to maximisation of value, some more time has to be given to the RP vis-à-vis to the CoC for consideration of the addendums. Hence, we pass the following orders accordingly: -
- (a) We direct the Committee of Creditors to re-vote on the Resolution Plan of the applicant after taking into consideration of the addendums dated 21/09/2023 and 27/10/2023 submitted by the applicant;

(b) Accordingly, we extend the CIRP period of the corporate debtor by 30 days from the date of uploading the order on the NCLT Website. RP shall complete the CIRP process accordingly within the extended time.

(c) With regard to withdrawal of letter dated 06/10/2023, it is kept open at this stage.

8. IA(IBC)/1826(KB)2023 is accordingly disposed of with the above directions.
9. **IA(IBC)/1750(KB)2023** – In view of the order passed in IA(IBC)/1826(KB)2023, this IA is dismissed as withdrawn with liberty to the RP to file afresh, if necessary.

Arvind Devanathan
Member (Technical)

Bidisha Banerjee
Member (Judicial)