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Supreme Court re-affirms the principle of limited judicial interference by the Adjudicating Authority in approved resolution plan

In a landmark ruling, the Hon'ble Supreme Court of India ("Supreme Court") in *Piramal Capital and Housing Finance Limited vs. 63 Moons Technologies Limited and Ors.*¹, re-affirmed the limited scope of judicial review available to the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016 ("IBC") and further upheld the commercial wisdom of the Committee of Creditors ("CoC").

Brief facts

1. Dewan Housing Finance Corporation Limited ("DHFL"), a housing finance and Non-Banking Financial Company ("NBFC") regulated under the National Housing Bank Act, 1987 ("NHB Act") and the Reserve Bank of India Act, 1934 ("RBI Act"), was accused of committing financial scams, including *inter alia* loan frauds and money laundering.
2. The Reserve Bank of India ("RBI"), having found DHFL's conduct detrimental to the interests of depositors and creditors, superseded its Board of Directors under Section 45-IE of the RBI Act and appointed an administrator.
3. Subsequently, the RBI filed a petition before the National Company Law Tribunal ("NCLT") under Section 227 of the IBC for initiating Corporate Insolvency Resolution Process ("CIRP") against DHFL.
4. Thereafter, the administrator, who was also appointed as the Resolution Professional, constituted the CoC. Piramal Capital and Housing Finance Limited ("**Appellant**") submitted its Resolution Plan, which was later approved by the CoC ("**Resolution Plan**").
5. The Resolution Plan was submitted for approval before the NCLT under Section 31 of the IBC. However, 63 Moons Technologies Limited ("**63 Moons**"), a creditor/Non-Convertible Debenture ("**NCD**") holder of DHFL, challenged the Resolution Plan before the NCLT on the ground that it provided for the benefits accrued from recoveries under Section 66 of the IBC, to go to the Appellant. The NCLT, however, approved the Resolution Plan and, by a separate order, dismissed the application filed by 63 Moons.
6. Aggrieved by the dismissal, 63 Moons preferred an appeal before the National Company Law Appellate Tribunal ("NCLAT"), which, *vide* its impugned order, directed the CoC to reconsider the Resolution Plan, specifically the clause on appropriation of Section 66 of the IBC recoveries by the Appellant. Similarly, aggrieved by the approval of the Resolution Plan, other interested parties, such as ex-directors/promoters and Fixed Deposit ("**FD**") holders of DHFL, also filed appeals before the NCLAT which were also decided by the NCLAT.

¹ Civil Appeal Nos. 1632 – 1634 of 2022 decided on April 1, 2025.

- Resultantly, the appeals filed before the Supreme Court, challenging the NCLAT's decisions were divided by the Supreme Court into 3 (three) categories: (a) statutory limits on recoveries from avoidance transactions; (b) rights of FD and NCD holders; and (c) Rights of ex-promoters/directors.

Issues

- What is the extent and scope of judicial review exercisable by the NCLT under Section 31 of the IBC and by the NCLAT under Section 61 of the IBC?
- Whether the Resolution Plan approved by the CoC and the NCLT was in contravention of any prevailing laws, thereby necessitating the NCLAT to exercise its jurisdiction under Section 61 of the IBC?

Findings and analysis

While affirming the NCLT's order approving the Resolution Plan, the Supreme Court made the following observations:

Re: Limited scope of judicial review by the Adjudicating Authority:

- The 'Statement of Objects and Reasons' of the IBC, emphasizes that IBC's primary aim is to ensure a time-bound resolution process, maximise asset value, and balance stakeholder interests.
- Section 31 of the IBC empowers the NCLT to approve a resolution plan if it meets the requirements under Section 30(2) of the IBC. As such, the NCLT's role is limited to verifying compliance with Section 30(2) of the IBC without assessing the resolution plan's commercial viability.
- Similarly, Section 61 of the IBC restricts NCLAT's appellate jurisdiction to specific grounds, such as legal violations or procedural irregularities, thereby underlining the limited scope of judicial interference.
- Once the resolution plan is approved by the CoC and is placed before the NCLT for its approval under Section 31 of the IBC, the NCLT *has only to see* whether the Resolution Plan as approved by the CoC meets the requirements as referred to in Section 30(2) of the IBC. If the resolution plan fails to do so, only then can it be rejected under Section 31(2) of the IBC.
- The Supreme Court held that NCLAT transgressed its jurisdiction under Section 61 of the IBC by tinkering with the isolated clauses of the approved Resolution Plan. It was observed that modifying the approved Resolution Plan on the ground that the Appellant could not have appropriated such recoveries was *not only ex facie* fallacious and erroneous but also demonstrated utter disregard for the settled legal position followed in a catena of decisions.

Re: Supremacy of 'Commercial Wisdom' of the CoC:

- The Supreme Court reiterated that it is no more *res integra* that the legislature has given paramount importance to the '*commercial wisdom*' of CoC and that the scope of the judicial review by the NCLT or NCLAT is narrowly confined and restricted to the extent provided under Section 31 and Section 61 of the IBC respectively.
- The Supreme Court also analysed and relied upon the decisions rendered by it in *K. Sashidhar vs. Indian Overseas Bank*², *Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited and Ors.*³ and *Committee of Creditors of Essar Steel India Ltd. vs. Satish Kumar Gupta*⁴, and observed that the NCLT cannot substitute its own view for the CoC's commercial decision. Similarly, in *Ebix Singapore Private Limited vs. Committee of Creditors of Educomp Solutions Ltd and Anr.*⁵, the Supreme Court reinforced that the NCLT is prohibited from second-guessing the commercial wisdom of the CoC or directing unilateral modification of the Resolution Plan.

² (2019) 12 SCC 150

³ (2021) 9 SCC 657

⁴ (2020) 8 SCC 531

⁵ (2022) 2 SCC 401

3. In the present case, the Resolution Plan approved by the CoC was an outcome of the commercial bargain struck between the Appellant and the CoC after several rounds of negotiations and deliberations. Thus, the 'Commercial Wisdom' of the CoC could not have been doubted by the NCLAT.

Re: Distinction between avoidance transactions and fraudulent trading under the IBC:

1. The Supreme Court observed that applications filed in respect of 'Fraudulent and Wrongful trading' carried on by DHFL under Section 66 of the IBC could not be termed as 'Avoidance Applications' used for applications filed under Sections 43, 45 and 50 of the IBC to avoid or set aside the preferential, undervalued or extortionate transactions, as the case may be.
2. It was noted that there is a clear demarcation of powers of the NCLT to pass orders in the avoidance applications filed under Sections 43, 45 and 50 falling under Chapter III of Part II of the IBC and the applications filed regarding fraudulent and wrongful trading, under Section 66 falling under Chapter VI of Part II of the IBC.
3. If the Resolution Professional has filed common applications under Sections 43, 45, 50 of the IBC and also under Section 66 of the IBC, NCLT will have to distinguish the same and decide as to which provision would be attracted to which of the applications and then exercise the powers and pass the orders in terms of the provisions of the IBC.

Re: No violation of rights of NCD and FD holders:

1. A provision in the Resolution Plan for the appropriation of recoveries under Section 66 of the IBC to the Appellant did not violate the rights of the NCD holders primarily because it was not in contravention of the provisions of the IBC and also because the NCD holders had voted overwhelmingly in favour of the Resolution Plan of the Appellant.
2. The Supreme Court held Creditors who fail to raise timely objections and vote in favour of the Resolution Plan are barred from challenging it at a later stage.
3. The Supreme Court also rejected the contention of FD holders alleging unequal treatment under the Resolution Plan, which provided full repayment only to those with claims of up to INR 2,00,000 (Indian Rupees two lakh), while others were to receive a pro-rata distribution based on liquidation value.
4. The Supreme Court clarified that there is no statutory requirement mandating full repayment of deposits under Section 36A of the NHB Act, Section 45-QA of the RBI Act, or any other relevant provision, as contended by the FD holders.

Re: Rights of the Ex-promoters/directors to participate in the CIRP:

1. Lastly, dismissing the appeals filed by the ex-promoters and directors of DHFL, the Supreme Court observed that while suspended directors under Section 24 of the IBC have a right to attend CoC meetings without voting, superseded directors lack such entitlement.
2. Supreme Court distinguished between 'supersession' under the RBI Act and 'suspension' under the IBC, noting that the former permanently vacated the directors' offices, unlike the temporary effect of the latter.

Conclusion

The Supreme Court reinforced the limited scope of judicial review under the IBC and reiterated that the NCLT and NCLAT cannot interfere with the 'Commercial Wisdom' of the CoC, except on specific grounds under Sections 30(2) and 61 of the IBC.

The Court emphasised that once the CoC approves a resolution plan with the requisite majority, the NCLT's or NCLAT's role is restricted to checking legal compliance and not evaluating commercial merits. An approved resolution plan attains finality and the same is necessary to give effect to the CIRP of the corporate debtor.

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