



Ushdev International Ltd.

10th August, 2021

To,

BSE Limited,

Listing Department,
Phiroze Jeejeebhoy Towers,
Dalai Street,
Mumbai — 400001

BSE- 511736

Dear Sir/ Madam,

Sub: Status of Ongoing Corporate Insolvency Resolution Process (CIRP) of the company

M/s. Ushdev International Limited is under the Corporate Insolvency Resolution Process (CIRP) vide order passed by the Hon'ble National Company Law Tribunal, Mumbai Bench (NCLT) dated 14th May, 2018 as per the provisions of the Insolvency and Bankruptcy Code, 2016 (Code) and Rules and Regulations made there under. Its Management affairs, business, and assets are being managed by the Resolution Professional, Shri Subodh Kumar Agrawal, appointed as Interim Resolution Professional by the National Company Law Tribunal by order dated 14th May, 2018 and later confirmed as Resolution Professional by the Committee of Creditors (CoC) in its meeting held on 14th June, 2018 under provisions of the code.

Pursuant to the NCLT order, the powers of the Board of Directors stand suspended and are exercisable by Shri Subodh Kumar Agrawal, Resolution Professional. Under the CIRP, A resolution plan received from the Resolution Applicant M/s. Taguda Pte Ltd had been placed before the member of the CoC for voting and the same had been rejected by the members. The liquidation petition was filed with NCLT.

NCLT has approved the resolution plan dated 7th November, 2019, on the basis of which the appellant State Bank of India filed an application against the order of NCLT dated 29th November, 2019.

Further to the above information, National Company Law Appellate Tribunal (NCLAT), Delhi Bench vide an Order Dated 29th November, 2019 had stayed the order of NCLT dated 7th November, 2019 and stated that Resolution Professional will manage the affairs of the Company and continue to discharge his functions as before. Few members of the COC had appealed against the order of NCLT in New Delhi Bench of National Company Law Appellate Tribunal (NCLAT). NCLAT vide its order dated 29th November, 2019 had given a stay on the NCLT order approving the resolution plan. Subsequently some of the Bankers filed an affidavit with NCLAT showing their interest to restart the renegotiation process with Resolution Applicant afresh. The matter was adjourned for hearing on 17th January, 2020, 28th February, 2020, 2nd March, 2021 and 6th April, 2021 due to COVID 19 Pandemic. (Orders enclosed herewith)

CIN: L40102MH1994PLC078468

Registered Office: New Harileela House, 6th Floor, Mint Road, Fort, Mumbai - 400001

Corporate Office: Apeejay House, 6th Floor, 130 Mumbai Samachar Marg, Fort, Mumbai - 400023

Phone: +91-22-61948888 Fax: +91-22-22821098

E-mail: info@ushdev.com Website: www.ushdev.com



Ushdev International Ltd.

On 8th April 2021 NCLAT passed an order setting aside the NCLT order to consider the resolution plan and take commercial decision in the best interest of the corporate debtors and file the application with NCLT. The application was submitted to Hon'ble NCLT on 25th June, 2021 for its subsequent approval thereupon.

You are requested to please take the information on record.

Yours faithfully,

For **Ushdev International Limited**

Sayli Munj

Company Secretary and Compliance Officer



Encl: AA

(Ushdev International Limited is under Corporate Insolvency Resolution Process as per the provisions of IBC, 2016. Its affairs, business and assets are being managed by Resolution Professional, Mr. Subodh Kumar Agrawal, appointed as Interim Resolution Professional by NCLT, Mumbai bench by order dated May 14, 2018 and was consequently confirmed as Resolution Professional by the Committee of Creditors.)

CIN: L40102MH1994PLC078468

Registered Office: New Harileela House, 6th Floor, Mint Road, Fort, Mumbai - 400001

Corporate Office: Apeejay House, 6th Floor, 130 Mumbai Samachar Marg, Fort, Mumbai - 400023

Phone: +91-22-61948888 Fax: +91-22-22821098

E-mail: info@ushdev.com Website: www.ushdev.com

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1377 of 2019

IN THE MATTER OF:

State Bank of India

...Appellant

Vs

Subodh Kumar Agrawal & Ors.

....Respondents

Present:

For Appellant: Mr. Ramji Srinivasan, Sr. Advocate with Ms. Shivani Sinha and Ms. Charu Bansal, Advocates.

For Respondents: Mr. Kumar Kislay, Advocate for R-1.

Mr. Abhinav Vashisht, Sr. Advocate with Mr. Goutam, Ms. Shivangi Agarwal, Ms. Radhika Gautam, Ms. Sonali Agarwal and Ms. Akshita Sachdeva, Advocates for R-2.

Mr. Amit Agarwal, Mr. Shwetabh Sinha, Ms. Ashmi Mohan and Mr. Dinesh Gupta, Advocates for R-4.

ORDER

29.11.2019: One of the issues raised by the Appellant is that the resolution plan approved by the Adjudicating Authority, which had been rejected by the Committee of Creditors, is in disregard of the decision rendered by the Hon'ble Apex Court in ***Civil Appeal No. 10673 of 2018 titled 'K. Shashidhar Vs. Indian Overseas Bank and Ors.'*** decided on ***5th February, 2019 (2019 SCC Online SC 257).***

Issue notice. Mr. Kumar Kislay, Advocate accepts notice on behalf of the 1st Respondent. Ms. Radhika Gautam, Advocate accepts notice on behalf of the 2nd Respondent. Mr. Amit Agarwal, Advocate accepts notice on behalf of the 4th Respondent. No further notice needs to be issued on them. Respondents are allowed to file reply affidavit within two weeks. Rejoinder, if any, may be filed by the Appellant within two weeks thereof.

Let notice be issued on rest of the Respondents by Speed Post. Requisites alongwith process fee, if not already filed, be filed by 2nd December, 2019. If the Appellant provides email address of the rest of the Respondents, let notice be also issued through email.

Post the appeal 'for admission (after notice)' on **17th January, 2020**.

Till next date of hearing, the impugned order shall not be implemented, if not yet implemented and the Resolution Professional will manage the affairs of the Company and continue to discharge his functions as before.

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

am/gc

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins) No. 1377 of 2019

IN THE MATTER OF:

State Bank of India

....Appellant

Vs.

Subodh Kumar Agrawal & Ors.

....Respondents

Present:

For Appellant: Ms. Misha and Mr. Vaijayant Paliwal, Advocates

**For Respondents: Mr. Vishrutyi Sahni, Advocate for R-1
Mr. Rajiv Ranjan, Sr. Advocate with Ms. Aliya Durafshan, Mr. Ketan Madan, Advocates for R-5
Mr. K. Dutta and Mr. Rahul Gupta and Ms. Shivambika, Advocates for R-2.
Mr. Shwetabh Sinha and Mr. Sidhant, Advocates for R-4.**

O R D E R

17.01.2020: The Learned Counsel for the Respondent Nos. 2,4,5 pray for and are allowed two week's time to file Reply Affidavit. Rejoinder, if any, may be filed by the Appellant within one week thereafter. Respondent No. 1 had already filed the Reply.

The interim order passed earlier, is extended till then.

List the matter 'For Admission (After notice)' on **10th February, 2020.**

[Justice Venugopal M.]
Member (Judicial)

[V. P. Singh]
Member (Technical)

sa/nn

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins) No. 1377 of 2019

IN THE MATTER OF:

State Bank of India

....Appellant

Vs.

Subodh Kumar Agrawal & Ors.

....Respondents

Present:

**For Appellant: Mr. Shantanu Chaturvedi and Ms. Charu Bansal,
Advocates**

**For Respondents: Mr. Kumar Kislay and Ms. Vishrutyi Sahni,
Advocates for R-1.**

**Mr. Ashmi Mohan and Mr. Sunit Mondal,
Advocates for R-4.**

Mr. Ketan Madan, Advocate for R-5.

Mr. Subodh Kumar Agrawal, Advocate for RP.

Mr. Utpal Banerjee, Advocate for R-2.

Mr. V.M. Srivastava, Advocate for R-3.

O R D E R

10.02.2020: For the Reply of Respondent No. 2 filed on 06.02.2020, the Appellant pray for the time to file Rejoinder, if any. Acceding the request of the Learned Counsel for the Appellant the matter is adjourned by **28th February, 2020.**

Before the next hearing date the parties are directed to complete the pleadings.

The interim order passed on 29.11.2019 shall continue till the next date of hearing.

[Justice Venugopal M.]
Member (Judicial)

[V. P. Singh]
Member (Technical)

sa/rr

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 1377 of 2019

IN THE MATTER OF:

State Bank of India

.....Appellant

Vs.

Mr. Subodh Kumar Agrawal & Ors.

.....Respondents

Present :

For Appellant:

Mr. Ramji Srinivasan, Sr. Advocate, Mr. Vaijayant Paliwal, Mr. Shikhar Singh, Mr. Rishubh Kapoor, Advocates

For Respondents:

**Mr. Ujjal Banerjee, Advocate for 2
Vishrutyi Sahni Advocate for RP
Mr. Lodha Dev, Advocate
Mr. Amit Agarwal, Ashmi Mohan, Mr. S.Sinha,
Mustafa Motiwal, sumtmondal Advocates
Mr. Kumar Anurag Singh, Zain Khan, Ketan Madan,
Advocates for R-5
Mr. V.M. Srivastava, Mr. Pradeep, Advocates for R-3**

With

Company Appeal (AT) (Insolvency)No. 07 of 2020

IN THE MATTER OF:

Canara Bank

.....Appellant

Vs.

Mr. Subodh Kumar Agrawal & Ors.

.....Respondents

...contd.

Present :

**For Appellant: Mr. Avinash Mohapatra, Mr. P.B.A. Srinivasan,
Advocates**

**For Respondents: Vishrutyi Sahni Advocate for R-1
Mr. Ujjal Banerjee, Advocate for R-2**

O R D E R

28.02.2020 - In these appeals such of the Respondents who have not filed reply till now, may file reply by 12th March, 2020. Rejoinders may be filed by 19th March, 2020

List both these appeals for 'admission' (after notice) on **30th March, 2020**.

Interim Orders to continue.

[Justice A.I.S. Cheema]
Member (Judicial)

[Justice Anant Bijay Singh]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

ss/m

**Company Appeal (AT) (Insolvency)No. 1377 of 2019
Company Appeal (AT) (Insolvency)No. 07 of 2020**

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1377 of 2019

IN THE MATTER OF:

State Bank of India

...Appellant.

Versus

Subodh Kumar Agrawal & Ors.

...Respondents.

Present:

For Appellant: Mr. Ramji Srinivasan, Sr. Advocate with Ms. Misha, Mr. Vaijayant Paliwal, Ms. Shivani Sinha and Mr. Charu Bansal, Advocates.

For Respondent: Vishrutyi Sahni, Mr. Kumar Kislay, RP, R-1.

Mr. Arun Kathpalia, Sr. Advocate with Mr. Ujjal Banerjee, Mr. Akash Khurana, Advocates for R-2.

Mr. Dhruba Mukherjee, Sr. Advocate with Mr. Vaibhav Manu Srivastava, Advocates for R-3.

Mr. Ashmi Mohan, Mr. Amit Aggarwal, Mr. Mustafa Motiwala, Advocates for R-4.

Mr. Ketan Madan, Mr. Himanshu Harbola, Advocates for R-5.

Mr. Amit Sibal, Sr. Advocate with Mr. Prakshal Jain, Mr. Nitesh Jain, for ICICI Bank.

Mr. Vividh Tandon and Ms. Shivani Rawat (Intervenor)

Futema Kachwalla, RP.

WITH

Company Appeal (AT) (Insolvency) No. 07 of 2020

IN THE MATTER OF:

Canara Bank

...Appellant.

Versus

Subodh Kumar Agarwal & Ors.

...Respondents.

Present:

For Appellant: Mr. PBA Srinivasan, Ichchha Kalash, Mr. Parth Tandon and Mr. Avinash Mohapatra, Advocates.

**For Respondent: Vishrutyi Sahni, Mr.Kumar Kislay, RP, R-1.
Mr. Arun Kathpalia, Sr. Advocate with
Mr. Ujjal Banerjee, Mr. Akash Khurana,
Advocates for R-2.
Futema Kachwalla, RP.**

**ORDER
(Virtual Mode)**

02.03.2021 Learned Counsel for some of the parties state that there is effort to settle the matter and seek time.

In view of the statement, we adjourn this matter. By next date if the matter is not settled, the Appeals should be argued.

List both the Appeals 'For Admission (After Notice)' Hearing on **06th April, 2021.**

**[Justice A.I.S. Cheema]
Member (Judicial)**

**[Dr. Alok Srivastava]
Member (Technical)**

Basant B./nn

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 1377 of 2019

IN THE MATTER OF:

State Bank of India **....Appellant**

Vs.

Mr. Subodh Kumar Agrawal & Ors. **....Respondents**

Present:

For Appellant: **Ms. Misha, Mr. VaijayantPaliwal, Ms. Charu Bansal and Ms. Shivani Sinha, Advocates.**

For Respondents: **Mr. Vishrutyi Sahni, Ms. Fatema Kachwalla and Mr. Kumar Kislay(RP), Advocates for R-1.**

Mr. ArunKathpalia, Sr. Advocate with Mr. Ujjal Banerjee and Mr. AkashKhurana, Advocates for R-2.

Mr. Dhruba Mukherjee, Sr. Advocate with Mr. Vaibhav Manu Srivastava, Advocate for R-3.

Ms. Ashmi Mohan, Mr. Shwetabh Sinha, Mr. Amit Aggarwal, Mr. Mustafa Motiwala and Mr. SunitMondal, Advocates for R-4.

Mr. Ketan Madan and Mr. HimanshuHarbola, Advocates for R-5.

Mr. Amit Sibal, Sr. Advocate with Mr. Prakshal Jain and Mr. Nitesh Jain, Advocates for ICICI Bank.

With

Company Appeal (AT) (Ins) No. 07 of 2020

IN THE MATTER OF:

Canara Bank **....Appellant**

Vs.

Mr. Subodh Kumar Agrawal & Ors. **....Respondents**

Present:

For Appellant: **Mr. PBA Srinivasan and Mr. AvinashMohapatra, Advocates.**

For Respondents: **Mr. Vishrutyi Sahni, Ms. Fatema Kachwalla and Mr. Kumar Kislay(RP), Advocates for R-1.**

Mr. ArunKathpalia, Sr. Advocate with Mr. Ujjal Banerjee and Mr. AkashKhurana, Advocates for R-2.

Mr. Amit Sibal, Sr. Advocate with Mr. Prakshal Jain, Mr. VividhTandona and Mr. Nitesh Jain, Advocates for ICICI Bank.

ORDER
(Virtual Mode)

06.04.2021: Advocate Ms. Misha appears for the Appellant/State Bank of India in Company Appeal (AT) (Ins) No. 1377 of 2019.

Advocate Mr. PBA Srinivasan appears for the Appellant/Canara Bank in Company Appeal (AT) (Ins) No. 07 of 2020.

Advocate Ms. Fatema Kachwalla appears for the Respondent No. 1(RP) in both the Appeals.

Senior Advocate Mr. Arun Kathpalia appears for Respondent No. 2 SRA in both the Appeals.

Senior Advocate Mr. Dhruva Mukherjee appears for Respondent No. 3 in Company Appeal (AT) (Ins) No. 1377 of 2019.

Advocate Mr. Amit Aggarwal appears for Respondent No. 4 in Company Appeal (AT)(Ins) No. 1377 of 2019.

Advocate Mr. Ketan Madan appears for Respondent No. 5 (Ushdev Employees Association) in Company Appeal (AT) (Ins) No. 1377 of 2019.

All the above Counsel submit that in the present Appeal the Adjudicating Authority has approved the Resolution Plan which was rejected by the CoC.

All the above Learned Counsel submit that after the passing of the impugned order and during pendency of the Appeal, Respondent No. 2 has substantially improved upon the Resolution Plan and the Revised CoC is in the favor of reconsideration of the Resolution Plan to save the Corporate Debtor from the liquidation and to see that Resolution Plan takes place.

The Appellant in Company Appeal (AT) (Ins) No.1377 of 2019 has filed Affidavit(Diary No. 26360) to show that there is improved Resolution Plan which is referred as Revised Resolution Plan and that majority of the CoC is in the favour of sending back the matter to CoC with the lease of some days to complete the process of CIRP.

It is stated that the copy of the Revised Resolution Plan has been sent by e-mail. However, the copy is not on record. Let the hard copy be filed by tomorrow.

Learned Counsel for intervener ICICI has some objections. We will refer them on next date.

List both the Appeals 'For Admission (After Notice) Hearing' High on Board on **08th April, 2021**.

[Justice A.I.S. Cheema]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

sr/md

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1377 of 2019

IN THE MATTER OF:

State Bank of India

SAMB-II, Raheja Chambers,
1st Floor, B Wing, Free Press Journal Marg,
Nariman Point, Mumbai - 400021

...Appellant.

Versus

1. Mr. Subodh Kumar Agrawal

Resolution Professional of Ushdev International Ltd.
1, Ganesh Chandra Avenue,
3RD Floor, R. N-301, Kolkata – 700013

2. Taguda Pte. Limited, Singapore

1, Magazine Road,
#04-11 Central Mall,
Singapore 059567

3. Suman Gupta (Promoter)

A/1, Brighton Apartments,
68-D, Neapensea Road, Mumbai

4. Lodha Development Management Pvt. Ltd.

7th Floor, Lodha Excelus,
Apollo Mills Comound,
M.M. Joshi Marg, Mahalaxmi,
Mumbai, Maharashtra – 400011

5. Ushdev Employees Association

Represented by Birendra Singh,
1302, Crimson Tower,
Akurli Satya CHS Ltd, Lokhandwala Township,
Kandivali East, Mumbai - 400101

...Respondents.

Present:

**For Appellant: Mr. Ramji Srinivasan, Sr. Advocate with Ms. Misha,
Mr. Vijayant Paliwal, Ms. Shivani Sinha and
Mr. Charu Bansal, Advocates.**

**For Respondent: Vishrutyi Sahni, Mr.Kumar Kislay, RP, R-1.
Mr. Arun Kathpalia, Sr. Advocate with
Mr. Ujjal Banerjee, Mr. Akash Khurana,
Advocates for R-2.
Mr. Dhruba Mukherjee, Sr. Advocate with**

**Mr. Vaibhav Manu Srivastava, Advocates for R-3.
Mr. Ashmi Mohan, Mr. Amit Aggarwal,
Mr. Mustafa Motiwala, Mr. Shwetabh Sinha,
Mr. Sunit Mandal, Advocates for R-4.
Mr. Ketan Madan, Advocates for R-5.
Mr. Amit Sibal, Sr. Advocate with
Mr. Prakshal Jain, Mr. Nitesh Jain, for ICICI Bank.
Mr. Vividh Tandon and Ms. Shivani Rawat
(Intervenor)
Futema Kachwalla, R-1, IRP.**

WITH

Company Appeal (AT) (Insolvency) No. 07 of 2020

IN THE MATTER OF:

Canara Bank

Corporate Office At:
112, J C Road,
Bangalore, Karnataka – 560002

One of its Branch at:

Canara Bank,
150, Habibullah Road,
Thiyagaraya Nagar,
Chennai, Tamil Nadu 600017

...Appellant.

Versus

1. Subodh Kumar Agarwal

Resolution Professional
For Ushdev International Limited
1, Ganesh Chandra Avenue
3rd Floor, R. N-301,
Kolkata – 700013

2. Taguda Pte. Limited, Singapore

1, Magazine Road,
#04-11 Central Mall,
Singapore 059567

...Respondents.

Present:

**For Appellant: Mr. PBA Srinivasan, Ichchha Kalash,
Mr. Parth Tandon and Mr. Avinash Mohapatra,
Advocates.**

For Respondent: Vishrutyi Sahni, Mr.Kumar Kislay, RP, R-1.

**Mr. Arun Kathpalia, Sr. Advocate with
Mr. Ujjal Banerjee, Mr. Akash Khurana,
Advocates for R-2.**

Futema Kachwalla, R-1, IRP.

**Mr. Amit Sibal, Sr. Advocate with
Mr. Prakshal Jain, Mr. Nitesh Jain,
Mr. Vividh Tandon, for ICICI Bank.**

**ORDER
(Virtual Mode)**

08.04.2021 Seen Record of Proceedings of this Tribunal dated 06th April, 2021.

2. Subsequently, the Respondent No. 2 has filed hard-copy of Application (Diary No. 26632) along with Annexure A, which is stated to be Revised Resolution Plan. The Application makes a request that matter may be sent to Committee of Creditors (CoC in short) to consider the Revised Resolution Plan which is filed by the Applicant.

3. This Company Appeal (AT) (Ins.) No. 1377 of 2019 was filed by the State Bank of India against Impugned Order dated 07th November, 2019 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench). Impugned Order was passed in CP No. 1790/IBC/NCLT/MB/MAH/2017. Before

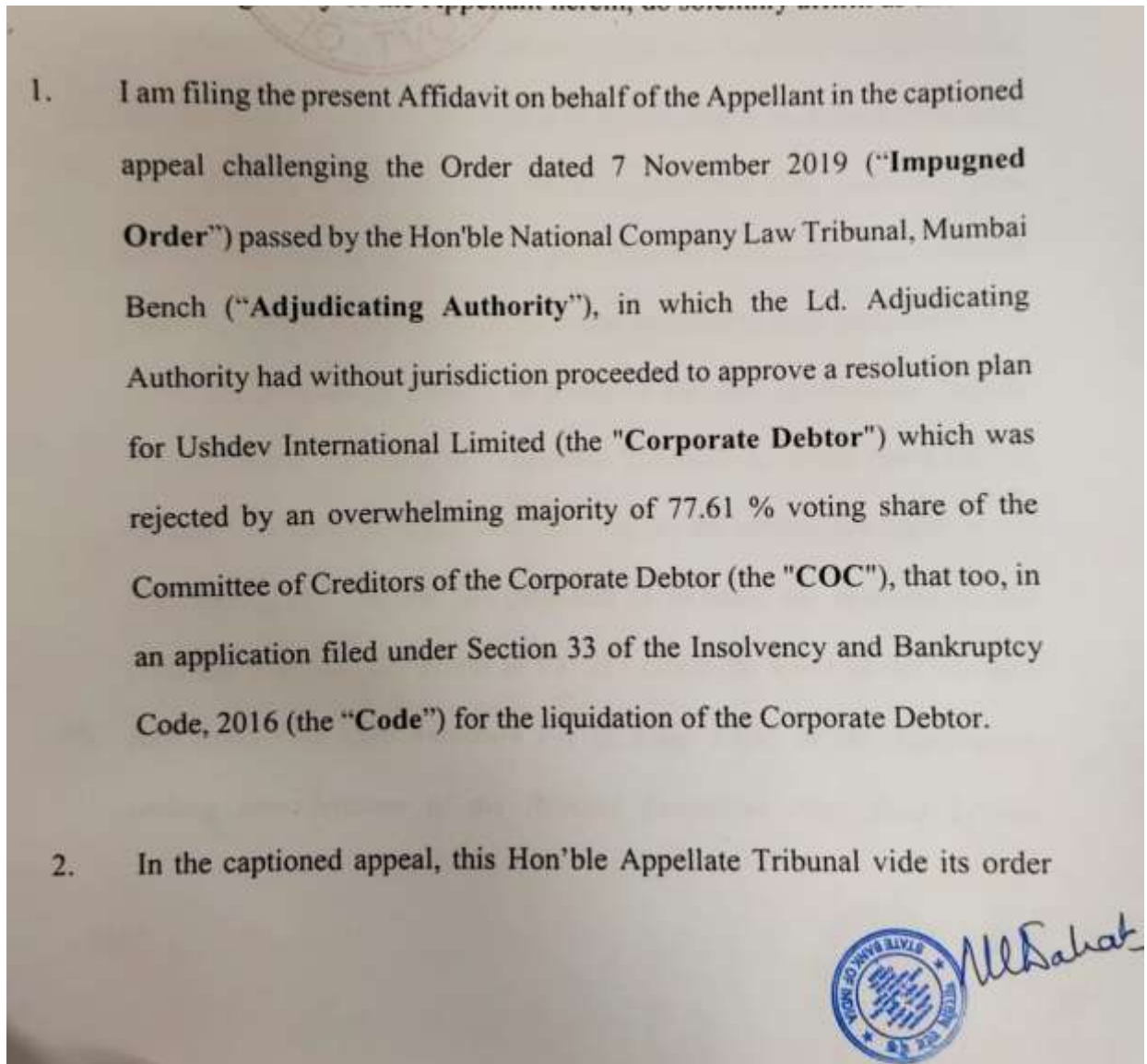
the Adjudicating Authority there were MA 626/2019 filed by the Resolution Professional seeking liquidation under Section 33 of IBC; MA 517/2019 filed by Canara Bank (Appellant in C.A. (AT) (Ins.) No. 07/2020); MA 716/2019 filed by a CoC Member; MA 989/2019 filed by Promoter of Corporate Debtor; MA 762/2019 filed by Taguda Pte. Ltd. the Unsuccessful Resolution Applicant and MA 857/2019 filed by Employees of the Corporate Debtor. The Corporate Debtor is Ushdev International Ltd. Company Appeal (AT) (Ins.) No. 07/2020 by Canara Bank also is challenging the same impugned Order.

4. The Learned Counsel for the parties before us accept that the CoC had by requisite majority rejected the Resolution Plan which had been earlier submitted by Respondent No. 2-Taguda Pte. Ltd. (Taguda in short) and the Resolution Professional had moved the Adjudicating Authority for liquidation of the Corporate Debtor filing Application under Section 33 of IBC. Record Shows the Adjudicating Authority however went into various details and Impugned Order in Paragraph 41 onwards recorded reasons why although the CoC rejected the Resolution Plan, the Adjudicating Authority was accepting the Resolution Plan submitted by Respondent No. 2.

5. It is stated by Learned Counsel for the Appellants that when CoC had taken a commercial decision rejecting Resolution Plan Adjudicating Authority could not have substituted it by its own decision to accept the Resolution Plan.

6. It is stated that during pendency of the Appeal there have been developments and the Respondent No. 2-Taguda who was unsuccessful before the CoC earlier has materially revised the offer in Revised Resolution Plan. The

Affidavit filed by Assistant General Manager of State Bank of India shows and it is argued by Sr. Advocate for State Bank of India that majority of Members of CoC are in favour of considering Revised Resolution Plan. The Affidavit filed is in C.A. (AT) (Ins.) No. 1377 of 2019, (Diary No. 26360) and the relevant part reads as under:



dated 29 November 2019, was then pleased to issue notice in the matter and directed that the Impugned Order shall not be implemented, if not yet implemented and the Resolution Professional was directed to continue managing the affairs of the Corporate Debtor and discharge his functions as before.



3. Thereafter, the pleadings in the matter were completed by March 2020 and the matter is at the stage of final arguments. However, the same did not come up for hearing on account of limited functioning of this Hon'ble Appellate Tribunal due to Covid-19 pandemic and the consequent nationwide lockdown. The facts of the matter have been stated in detail in the appeal, contents of which are not repeated herein for the sake of brevity.
4. Subsequently, during the pendency of the appeal, Taguda Pte. Limited ("**Taguda/Unsuccessful Resolution Applicant**"), whose resolution plan had been rejected by the COC, filed an application in the month of January 2021, thereby stating that they have reconsidered their resolution plan (which was rejected by the COC) and proposed to increase their financial offer in terms of a revised resolution plan attached to their application (the "**Revised Resolution Plan**"). In terms of the said application, Taguda prayed before this Hon'ble Appellate Tribunal, to direct the COC to consider the Revised Resolution Plan. As per the submission made in the said application, Taguda has proposed to increase the payment to the creditors from Rs. 200 crores to Rs. 227 crores, in terms of the Revised Resolution Plan (*See Annexure P-1 @ Page 10-65 of the Application seeking consideration of the Revised Resolution Plan filed by the*



AllSah

Applicant).

In view of the above, the Appellant herein i.e. State Bank of India, having 28.68% voting share in the COC is willing to consider the Revised Resolution Plan by Taguda. Further, in this regard, various other financial creditors being part of the COC have conveyed their willingness to consider the Revised Resolution Plan put forth by Taguda.

6. For the sake of convenience of this Hon'ble Appellate Tribunal, following is the list of the financial creditors (including the Appellant herein), along with their voting percentage in the COC, who have expressed their willingness to reconsider the Revised Resolution Plan:

S. No.	Name of the financial creditor	Voting percentage	Respective emails evidencing their consent to consider the Revised Resolution Plan as Annexures
1.	State Bank of India	28.68%	
2.	IDBI Bank Limited	13.32%	Annexure A-1
3.	Central Bank of India	5.99%	Annexure A-2
4.	Indian Overseas Bank	6.43%	Annexure A-3
5.	Union Bank of India (Andhra Bank)	3.74%	Annexure A-4
6.	Bank of Baroda and (Dena Bank)	10.67%	Annexure A-5
	Total	68.83%	

7. Therefore, it is evident that the majority of the financial creditors having a voting share of 68.83% in the COC are willing to consider the Revised Resolution Plan put forth by Taguda. The emails of the respective financial creditors demonstrating such interest/ willingness are annexed herewith as mentioned in the table above.



M. Sahal



8. It is pertinent to highlight that Taguda is proposing a considerable increase in value in terms of their Revised Resolution Plan, i.e. an increase of approximately 13.5% in value, from the original resolution plan that was rejected by the COC.
9. It is submitted further that in the current market scenario where the entire business world is dealing with the impact of Covid-19 pandemic and resultant lockdown, such an upward revision in offer could not only be beneficial for achieving value maximization of the assets of the Corporate Debtor but could also be in the interest of all the stakeholders. As per the submission made by Taguda, we note that Taguda is demonstrating interest in reviving the business of the Corporate Debtor. Therefore, in furtherance of the basic objectives of the Code i.e. to make all possible efforts to resolve a distressed entity and to ensure value maximization of the assets of a corporate debtor in the interest of all the stakeholders, it is imperative that an opportunity is afforded to the COC to consider the Revised Resolution Plan put forth by Taguda.
10. It is, therefore, to effectively uphold the purpose and object sought to be achieved by the Code as well as considering that Taguda is proposing a substantial increase in value of the Revised Resolution Plan, the members of the COC representing a majority (i.e. 68.83%) are willing to reconsider Taguda's Revised Resolution Plan.
11. Furthermore, in the case of *Swiss Ribbons Private Limited and Anr. v. Union of India and Ors. (2019) 4 SCC 17* and *Arcelor Mittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1*, the Hon'ble Supreme Court



MSK

has categorically held that liquidation of a corporate debtor should be a matter of last resort and every possible effort must be made for resolution of its insolvency.

12. Accordingly, in order to meet the objectives of the Code in case of the Corporate Debtor herein, the COC would require a direction to evaluate and consider the Revised Resolution Plan as the 270-day period of the corporate insolvency resolution process expired on February 07, 2019. This would enable the COC to decide the future course of action for the Corporate Debtor.
13. In light of the above and in the interest of justice, the Appellant is seeking urgent indulgence of this Hon'ble Appellate Tribunal to direct the COC to consider and evaluate the Revised Resolution Plan proposed by Taguda.

कृते भारतीय स्टेट बैंक
For STATE BANK OF INDIA
सनायअस्त आरित प्रबंधन शाखा-II, मुंबई
Stressed Assets Management Branch-II, Mumbai

Al Sahab

सहा. महाप्रबंधक एवं प्राधिकृत अधिकारी
Asst. General Manager & Authorised Officer

DEPONENT.

7. The Application which is referred in Paragraph 4 it is stated was earlier filed electronically but now hard-copy has been filed as Diary No. 26632.

8. The Learned Sr. Counsel for ICICI Bank who has filed Intervention Application Diary No. 16612 submits that ICICI Bank has certain reservations with regard to the part of revised resolution plan. It is stated that the ICICI Bank has corporate guarantee in its favour from one Ushdev NG Tech Ltd. which is tried to be assigned to the Resolution Applicant which according to the counsel is not permissible in law. The Learned Counsel states that the Appeal also raises this ground. According to us the statute is designed to be workable. The contentions are left open for consideration after CoC considers Revised Resolution Plan, and takes a decision.

9. Considering the Impugned Order which was passed and the law as it stands inter alia with regard to Commercial Wisdom of CoC, if the Appeals are allowed, and impugned Order is set aside the consequence would be liquidation. In such scenario, considering the Aims and Objects of IBC as they are, there is no harm if we send back the matter to CoC to consider the Revised Resolution Plan as has been filed and give some time for the same. It is settled law that liquidation should be last resort and if resolution is possible, every effort should be made for the same.

10. We may not be taken as expressing any opinion on the merits of the matter. We keep all contentions open. We find that the Revised Resolution Plan as has now been submitted should be sent to CoC. The CoC can consider the

Resolution Plan and negotiate with the Respondent No. 2 and take commercial decision in the best interest of the Corporate Debtor to find Resolution if possible.

For the above reasons, both the Appeals are allowed. Impugned Order is quashed and set aside. We remit back the matter to the CoC to consider the Revised Resolution Plan as has been filed with Diary No. 26632. It is stated that the Resolution Professional has been managing the Corporate Debtor in view of the Order dated 29th November, 2019 passed by this Tribunal in Company Appeal (AT) (Ins.) No. 1377 of 2019. The Resolution Professional is directed to call CoC meeting urgently and immediately place the Revised Resolution Plan as has been tendered in this Tribunal for the consideration of CoC.

*11. We grant period till 25th June, 2021 for completing the process which time will be considered as extended CIRP Period. During this time, the CoC to consider the Revised Resolution Plan and take decision on the Revised Resolution Plan. The Resolution Professional will then take further steps depending on whether CoC accepts the Revised Resolution Plan (with or without modifications) or rejects the same. In case, the Adjudicating Authority before end of 25th June, 2021 does not receive Resolution Plan under sub-section (6) of Section 30 of the IBC, the Adjudicating Authority would proceed further under Section 33(1) of the IBC read with this order, without making back reference to us.

12. If the Revised Resolution Plan is rejected the MA 626/2019 filed by the Resolution Professional under Section 33 of IBC would stand revived and Resolution Professional will move Adjudicating Authority for Orders regarding

Liquidation and the Adjudicating Authority would be at liberty to pass orders as per law, of liquidation. If the Resolution Plan is approved, with or without modifications, the Adjudicating Authority will consider the same on motion by the Resolution Professional for further steps under IBC.

Both the Appeals are disposed, accordingly. No Order as to costs.

[Justice A.I.S. Cheema]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

Basant B./md

* Para 11 substituted vide order dated 31.05.2021 passed in I.A. No. 918 of 2021 in Company Appeal (AT) (Ins.) No. 1377 of 2019 and Company Appeal (AT) (Ins.) No. 07 of 2020.

Sd/-

Court Officer