IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016

Byju Raveendran, Suspended Director and Promoter of M/s. Think and Learn Pvt. Ltd. Vs. Aditya Birla Finance Ltd. & 3 Ors.

Brief Facts

In *CP (IB) No. 149/BB/2023* filed by BCCI against M/s Think and Learn Pvt. Ltd., admitted on 16.07.2024, Pankaj Srivastava was appointed IRP who initially constituted the CoC on 21.08.2024 including Glass Trust Company LLC, Aditya Birla Finance Ltd., Incred Financial Services Ltd. and ICICI Bank Ltd., and recognized claims of Respondent No.1 (₹47.12 Cr) and Respondent No.3 (₹11,432 Cr) as financial creditors. However, the IRP subsequently reclassified Respondent No.1 as an operational creditor and removed Respondent No.3 on the ground of contingent claims, resulting in a reconstituted CoC dated 31.08.2024 with only one financial creditor (Incred) holding 100% voting share. Aggrieved parties challenged this before NCLT, which held that once the CoC is constituted, the IRP/RP has no adjudicatory power to review creditor status or reconstitute the CoC, citing *K.N.*

Rajkumar v. V. Nagarajan and *Union Bank v. Rajdeep Clothing*. The Tribunal restored the CoC as constituted on 21.08.2024, reinstated Respondents 1 and 3 as financial creditors, deprecated the IRP's conduct, and directed disciplinary action by IBBI.

Decision

The NCLAT, after noting that the IRP had initially constituted the CoC on 21.08.2024 including Glass Trust Company LLC with 99.41% voting share along with other creditors, found that the subsequent reconstitution on 31.08.2024, whereby all major creditors were excluded and only Incred Financial Services was retained with 100% voting share, was arbitrary and contrary to law. It held that once the CoC is constituted, the IRP/RP cannot reconstitute it except upon admission of new claims and with the approval of the Adjudicating Authority. Observing that the IRP had acted in a misleading and prejudicial manner, the NCLAT upheld the NCLT's order restoring the original CoC and further referred the IRP to IBBI for disciplinary action.

Link of the Order

https://ibbi.gov.in//uploads/order/7068e086a4cda623b33a612768fdfae6.pdf