

# IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



## **SREI Multiple Asset Investment Trust Vision India Fund Vs. Deccan Chronicles Marketeers & Others**

### **Brief Facts**

In the present case, Deccan Chronicle Holdings Ltd. (Corporate Debtor), is in the business of manufacturing, publishing, and selling daily periodicals under the trade names "Deccan Chronicle" (English) and "Andhra Bhoomi" (Telugu) ("Trademarks").

Canara Bank (Financial Creditor) started the Corporate Insolvency Resolution Process against DCHL under the Insolvency and Bankruptcy Code, 2016 before National Company Law Tribunal. Following the start of the Resolution Process, the Interim Resolution Professional made a public statement and welcomed claims from the Corporate Debtor's debtors. When the IRP received the claims, he compiled them and formed a Committee of Creditors. The Appellant, SREI Multiple Asset Investment Trust Vision India Fund, was the Corporate Debtor's successful resolution applicant whose resolution plan was approved by the Corporate Debtor's Committee of Creditors with 81.39% voting share and

conditionally approved by the Adjudicating Authority vide order dated 3<sup>rd</sup> June 2019.

The Appellant's Resolution Plan was discussed at the CoC's 20<sup>th</sup> meeting on 10<sup>th</sup> December 2018, and it was finally approved by the CoC, and the same became binding on Corporate Debtor, its employees, members, creditors, and all stakeholders involved in the Resolution Plan. However, an application bearing I.A. No.155 of 2018 was pending seeking a Declaration by the Corporate Debtor that it is the owner of the trademarks ("Deccan Chronicle" and "Andhra Bhoomi") and that the said trademarks be treated as part of the Corporate Debtor's assets.

Under its Order dated 14<sup>th</sup> August 2019, the Adjudicating Authority later decided on the said Application and directed that the Resolution Professional has established that it is the Corporate Debtor who has an exclusive right to use the trademarks and made a declaration that the same belongs to the Corporate Debtor.

DCHL filed an appeal against the above-mentioned Order dated 14<sup>th</sup> August 2019 before the NCLAT, which decided that the NCLT's declaration regarding trademark rights amounts to a modification/alteration of the approved Resolution Plan by the CoC, which is illegal in law, and accordingly set aside the same vide Order dated 2<sup>nd</sup> September 2022. Dissatisfied with the above-mentioned Order dated 2<sup>nd</sup> September 2022, the Appellant/SRA submitted an appeal to the Supreme Court.

## **Decision**

The Supreme Court observed at the start that the Resolution Plan was accepted with a majority of 81.39% voting rights of the CoC and was in accordance with IBC Sections 30(2) and 30(4) (Submission of Resolution Plan). It was also noted that when the matter went before the Adjudicating Authority (NCLT), it was conditionally approved by an Order dated 3<sup>rd</sup> June 2019, subject to the outcome of I.A. No. 155 of 2018 pending before the Adjudicating Authority in reference to the Corporate Debtor's brand names/trademarks.

The Hon'ble Supreme Court also stated that once the Resolution Plan is authorized, no changes or revisions are permitted. It must be accepted or rejected, but any change made after the CoC's approval of the Resolution Plan, based on its business sense, is not subject to court review unless it is found to be in violation of the IBC Code's directive.

The Apex Court also noted that the Resolution Plan was approved by the CoC with 81.39% of the vote and that it met the requirements outlined in Section 30(2) and 30(4) of the IBC, and that a specific reference to the exclusive right to use the brand names "Deccan Chronicle" and "Andhra Bhoomi" was made in the Resolution Plan, specifically in Clause 11.12. The reference clearly indicated that what was

approved by the CoC with 81.39% of its voting is to the effect that the Corporate Debtor has a perpetual exclusive right to use the brands, namely "Deccan Chronicle" and "Andhra Bhoomi," and it makes no mention of the Corporate Debtor's right of ownership over the trademarks/brands, "Deccan Chronicle" and "Andhra Bhoomi." However, in deciding I.A. No.155 of 2018, the Adjudicating Authority, in addition to upholding the exclusive right to use the trademarks "Deccan Chronicle" and "Andhra Bhoomi," made a further declaration that trademarks belong to Corporate Debtor/DCHL under its Order dated 14<sup>th</sup> August 2019, which was a modification/alteration of the approved Resolution Plan, which is clearly illegal in law.

The Hon'ble Supreme Court went on to say that in terms of the approved Resolution Plan, it was the Corporate Debtor's perpetual exclusive right to use the brands, namely "Deccan Chronicle" and "Andhra Bhoomi," which were available to SRA i.e. the Appellant herein and once it has been approved by the Adjudicating Authority, certainly the right to exclusive use of the Corporate Debtor's trademarks, on being approved by the Adjudicating Authority, As a result, the Apex Court ruled that the Appeal lacked substance and rejected it.

Thus, the Supreme Court rejected the Appellant's Appeal, as well as the pending applications, without fees.

### **[Link of the Order](#)**

<https://ibbi.gov.in/uploads/order/94048e2a0e9c5e0a2d31b38e86794643.pdf>



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