

# IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



## **MAHARASHTRA SEAMLESS LIMITED VS. PADMANABHAN VENKATESH & ORS (1)**

### **Brief Facts**

In the abovementioned matter, the appeal is filed by Maharashtra Seamless Limited ("MSL") seeking directions upon the corporate debtor for effective implementation of the resolution plan. Grievance of MSL in that proceeding was that they were not being given access to the assets of the corporate debtor. MSL has also applied for withdrawal of the resolution plan.

Their grievance is that in order to take over the corporate debtor, they availed substantial term loan facility and deposited the sum of Rs.477 crores for resolution of the corporate debtor in a designated escrow account but because of delay in implementation of the resolution plan, they were compelled to bear the interest burden.

The appeal of MSL is on the ground that the NCLAT had exceeded its jurisdiction in directing matching of liquidation value in the resolution plan and that final decision on resolution plan should be left to the commercial wisdom of the Committee of Creditors and there is no requirement that resolution plan should match the maximized asset value of the corporate debtors.



**INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)**

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## **Decision**

- a) Hon'ble Supreme Court held that no provision in the Code or Regulations has been brought to notice under which the bid of any Resolution Applicant has to match liquidation value arrived at in the manner provided in Clause 35 of the IBBI(Insolvency Resolution Process for Corporate Persons) Regulations, 2016. **[Para 26]**
- b) The court reiterated that the object behind prescribing such valuation process is to assist the CoC to take decision on a resolution plan properly. Once, a resolution plan is approved by the CoC, the statutory mandate on the Adjudicating Authority under Section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof. **[Para 27]**
- c) The court clarified that the Section 31(1) of the Code lays down in clear terms that for final approval of a resolution plan, the Adjudicating Authority has to be satisfied that the requirement of sub-section (2) of Section 30 of the Code has been complied with. The proviso to Section 31(1) of the Code stipulates the other point on which an Adjudicating Authority has to be satisfied. That factor is that the resolution plan has provisions for its implementation. The scope of interference by the Adjudicating Authority in limited judicial review has been laid down in the case of Essar Steel. **[Para 28]**
- d) Hon'ble Supreme Court ruled that MSL cannot withdraw from the proceeding in the manner they have approached this Court. The exit route prescribed in Section 12A is not applicable to a Resolution Applicant. The procedure envisaged in the said provision only applies to applicants invoking Sections 7, 9 and 10 of the code. In this case, having appealed against the NCLAT order with the object of implementing the resolution plan, MSL cannot be permitted to take a contrary stand in an application filed in connection with the very same appeal. **[Para 29]**

## **Link to the Order**

<https://ibbi.gov.in/uploads/order/55e89c436edcc6a95f8fe35cd9d28197.pdf>

