

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

**I.A. No. 593, 945 of 2019 & I.A. No. 296, 427, 586, 762, 845, 1709, 2424,
3579, 3115,4009 of 2022 & I.A. No. 276, 315, 316, 985, 1130 of 2023 in
Company Appeal (AT) No. 346 of 2018**

IN THE MATTER OF:

Union of India

....Appellant

Vs.

**Infrastructure Leasing and Financial Services Ltd. &
Ors.**

....Respondents

With

Company Appeal (AT) No. 347 of 2018

IN THE MATTER OF:

Infrastructure Leasing and Financial Services Ltd.

....Appellant

Vs.

Union of India & Ors.

....Respondents

Present:

Mr. Ramji Srinivasan, Sr. Advocate with Mr. Raunak Dhillon, Ms. Isha Malik,
Mr. Nihaad Dewan, Advocates for ILFS.

Mr. Aditya Sikka, Ms. Vasudha Vijaysheel, Advocates for Union of India.

Ms. Anannya Ghosh, Ms. Doel Bose, Advocates in I.A. No. 3579/2022.

Mr. Munindra Dvivedi, Ms. Divya Bhalla, Advocates in I.A. No. 1130/2023.

Mr. Amit Tyagi, Ms. Ishita Singh, Advocates for Sapients Consulting, TLG
Media.

Mr. Arun Kathpalia, Sr. Advocate with Ms. Sharmistha Ghosh, Ms. Diksha
Gupta, Advocates in I.A. No. 593 of 2019.

Mr. Rajiv S. Roy, Mr. Avrojyoti Chatterjee, Mr. Siddharth Dhingra, Ms. Jayasree Saha, Mr. Cyril Ignietious, Advocates for UCO Bank & Canara Bank.

Mr. Sanjay Bajaj, Mr. Shivan Thakkar, Advocates for PNB Consortium and Canara Bank in I.A. Nos. 586, 1709, 3115 of 2022.

Mr. Pawan Kumar Bansal, Mr. Ahsan Ul haq, Advocates in I.A. No. 762 of 2022.

Ms. Bani Brar, Advocate in I.A. No. 296, 427 of 2022.

Mr. Rajesh Kr. Gautam, Mr. Anant Gautam, Mr. Sumit Sharma, Advocates in I.A. No. 276 of 2023.

Mr. Krishnendu Datta, Sr. Advocate with Ms. Misha, Mr. Rahul Gupta, Ms. Mahina Sareen, Mr. Satyajit Bose, Advocates in I.A. No. 845, 4009 of 2022.

Ms. Misha, Mr. Satyajit Bose, Advocates in I.A. No. 315,316 of 2023.

Mr. Ramji Srinivasan, Sr. Advocate with Mr. Kuber Dewan, Ms. Neeharika Aggrawal, Ms. Trisha Roychaudhuri, Mr. Kaustubh Srivastava, Ms. Shruti Pandey and Ms. Sharmistha Ghosh, Advocates in I.A. No. 593 of 2019.

Mr. Abhirup Dasgupta, Mr. Ishaan Duggal, Mr. Pathik Choudhury, Advocates for Tata Power Consolidated Provident fund & for Pramerica Life Insurance Company.

Ms. Megha Karnwal, Mr. Sanjay Kapur, Advocates for SBI in I.A. No. 3579/2022.

Mr. Arun Kathpalia, Sr. Advocate with Mr. Gaurav Juneja, Mr. Aayush Jain, Ms. Monika Vyas, Advocates for SBI (Applicant) in I.A. No. 985/2023.

Mr. Shivam Shukla, Mr. Devansh Srivastava, Advocates in I.A. No. 2424 of 2022.

Mr. Arun Kathpalia, Sr. Advocate with Mr. Manmeet Singh, Mr. Yashvardhan, Ms. Anjali Dwivedi, Ms. Diksha, Advocates in I.A. No. 1709 of 2022.

ORDER

26.04.2023: I.A. No. 593 of 2019 :- Heard Mr. Arun Kathpalia, Learned Senior Counsel for the Applicant as well as Mr. Ramji Srinivasan, Learned Senior Counsel appearing for the ILFS. By this application the applicant has prayed for following reliefs:

- “a) Unwind the Transactions entered under the Master Agreement read with the Supplemental Agreement;*
- b) To allow the Applicant Bank to settle its books of accounts basis the unwinding of Transactions as per prayer a) above;*
- c) Pass such other and further order as this Hon'ble Appellate Tribunal may deem fit and proper; and*
- d) Award the Applicant Bank the cost of the present application.”*

The prayer in the application is that this Appellate Tribunal may permit the applicant to unwind the transactions entered into the master agreement read with supplemental agreement. Agreement and the supplemental agreement are the agreements which were entered by the parties and we see no reason as to why this Tribunal may permit unwinding of the transactions.

The transactions have entered between the parties and they are governing by the terms and condition of the transaction, we, thus, are of the view that the prayer made in the application cannot be granted.

Learned Counsel for the Appellant submits that the appellant be permitted to take steps in accordance with the contract to which Learned Counsel for the respondent submits that in view of the interim order

15.10.2018 passed in the Company Appeal (AT) No. 346 of 2018 no steps that will be adversarial to the ILFS can be taken. It is for the appellant to take into consideration all the aspects including the effect of the interim order and take appropriate action in accordance with law.

With these observations we dispose of this application.

I.A. Nos. 296, 427, 762 of 2022 :-Learned Counsel for the ILFS submits that New Board on 16.03.2023 were already granted and in-principle approval to unwind/collapse these kind of transactions and modalities of unwinding/collapsing such transactions is being worked out internally.

Learned Counsel for the Appellant seeks that this application be adjourned for two weeks.

Learned Counsel for the ILFS submits that proceedings before the NCLT under Section 7 adjournments shall be got adjourned.

List these applications on **18.05.2023**.

I.A. No. 586 of 2022- This I.A has been filed by Union of India for interim distribution on which order has already been passed on 31.05.2022 and 19.01.2023, infrastructure debt fund was entity which has filed an objection to the interim distribution and was kept out of the interim distribution. On 28.03.2023 we passed following order:

I.A. No. 586 of 2022 :- In this application objections were filed by IDF vide Diary No. 33181 of 2022 but no one has appeared for the IDF when the case is called. We adjourn this application to 26.04.2023 at 2.00 P.M.

We make it clear that in event no one appeared for the Objector's- IDF on the next date, application shall be heard and decided.

Mr. Ramji Srinivasan, Learned Senior Counsel for the ILFS may obtain status with regard to objections filed by the Canara Bank by the next date.”

Today when the application is called no one is present for IDF to raise any objections. It is further submitted that IDF has already filed appeal before Hon'ble Supreme Court which is pending consideration.

Learned Counsel for the Union of India submits that in view of the fact that there is no representation on behalf of the IDF, Union of India shall also include the entity. The Board will include the entity for which IDF in the interim distribution has filed objection in relation to the resolution of IWEL which shall however be subject to any order passed by Hon'ble Supreme Court.

I.A. Nos. 845 of 2022 & 4009 of 2022- This application has been filed on behalf of ICICI Bank praying that applicant bank and entire consortium of secured lenders of IECCL be permitted interim distribution.

Learned Counsel for the ILFS submits that the timeline of two months has been agreed upon with ICICI Bank for the lenders to arrive at a negotiated settlement with the H1 bidder which time is to come on 30.06.2023. It is submitted that any order on the application be deferred till 30.06.2023.

Learned Counsel for the appellant submits that the aforesaid resolution or H1 bids claim has nothing to do with the interim distribution.

We taking into consideration that the resolution is also in process are of view that we should wait till 30.06.2023 before passing any order in the interim distribution application.

List the applications on **19.07.2023**.

I.A. No. 1709 of 2022 – Heard Learned Counsel for the parties.

Order Reserved.

Parties are at liberty to submit a short note within three days of not more than three pages.

I.A. No. 2424 of 2022 – List this application on **18.05.2023**.

I.A. No. 3579 of 2022 – List this application on **18.05.2023**.

I.A. No. 3115 of 2022 – List this application on **18.05.2023**.

Learned Counsel for the Applicant seeks liberty to file reply to the Additional Affidavit filed by ILFS within two weeks.

I.A. No. 276 of 2023 – Learned Counsel for the Applicant submits that in view of the order passed by this Tribunal on 19.01.2023. This Court has already permitted that the MP Border Checkpost Development Company Ltd. be also included in the interim distribution.

Learned Counsel for the ILFS submits that Board has considered the said issue and has decided for the time being not to do interim distribution to this company.

Learned Counsel for the ILFS liberty to bring the resolution of the Board on the record.

List this application on **18.05.2023**.

We make it clear that we have already directed that this entity be also included in the interim distribution, Board shall consider it in accordance with law.

I.A. Nos. 315-316 of 2023 – Learned Counsel for the Applicant seeks time to obtain instructions.

List the application on **18.05.2023**.

I.A. No. 985 of 2023 – Learned Counsel for the Applicant seeks time to file Rejoinder Affidavit. He may do so within a week.

In this application notices were issued by order dated 28.03.2023, no reply has been filed by NHAI. We grant further two weeks time to file Reply Affidavit.

In the meantime, the interim prayers are allowed as prayed in Prayer C & D till the next date.

List this application on **18.05.2023**.

I.A. No. 1130 of 2023- Learned Counsel for respondent seeks time to file a Reply. Reply be filed within two weeks.

List this application on **18.05.2023**.

[Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

sa/nn