

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT)(Insolvency) No. 524 of 2019

IN THE MATTER OF:

Arcelormittal India Pvt. Ltd.

...Appellant

Vs

**Abhijit Guhathakurta,
RP of EPC Constructions India Ltd. & Ors.**

....Respondents

Present:

For Appellant: Mr. Amit Sibal, Sr. Advocate along with Mr. Raghav Shankar, Mr. Shahezad Kazi, Ms. Misha Chandra, Ms. Arshiya Sharda, Mr. Saksham Dhingra, Ms. Sonam, Advocates

For Respondents: Mr. Abhinav Vashisht, Sr. Advocate along with Mr. Sumesh Dhawan, Mr. Nakul Sachdeva and Mr. Aakashan Sahay, Advocates for Respondent No. 1

Mr. Sudipto Sarkar, Sr. Advocate along with Ms. Pratiksha Mishra, Advocate for Respondent No. 3

O R D E R

29.08.2019 If any of the Resolution Applicant (party herein) comes within the meaning of Section 5 of the Competition Act, the exemption granting order under Section 54 of the Competition Act by the Ministry of Corporate Affairs by Notification No. S.O. 988(E) dated 27.03.2017, requires to file application under Section 6(2) of the Competition Act. We allow the parties to give details of their value of respective asset; value of the asset of the 'Corporate Debtor' as on the date of initiation of 'Corporate Insolvency Resolution Process'; turnover of the Resolution Applicant(s) and the turnover of the 'Corporate Debtor' as on the date of initiation of 'Corporate Insolvency Resolution Process' who may file affidavit within a week. The Resolution Professional may also file affidavit giving turnover of the 'Corporate Debtor' and Liquidation Value (Value of asset) of the 'Corporate Debtor' as on the date of initiation of 'Corporate Insolvency Resolution Process'.

2. One of the pleas taken by the parties is that Combination comes into force on grant of approval under Section 31 of the Competition Act or 210 days if no order is passed on the notice under Section 6(2) of the Competition Act. On the other hand, Resolution Plan which may amount to combination comes into effect if the approval is granted by the Adjudicating Authority under Section 31 of IBC. In such case, the question will be whether before approval of the Resolution Plan under Section 31 of the Competition Act, prior approval of Competition Commission is required to be taken. The aforesaid issue should be decided on the next date.

3. Post this appeal 'For Admission (After Notice)' on **18th September, 2019 at 12.00 Noon** on the top of the list. The appeal may be disposed on the next date at the stage of Admission.

4. Pendency of the appeal will not come in the way of the Adjudicating Authority to pass appropriate order under Section 31 of Insolvency and Bankruptcy Code, 2016 which if approved, shall be subject to the decision of this Appeal.

[Justice S.J. Mukhopadhaya]
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Akc/Sk