
(2023) 02 NCLT CK 0037

In the National Company Law Tribunal

Case No : IA NOs.263, 374, 386, 430, 439 Of 2022, 10, 17 Of 2023 IN CP (IB)
No.218/ALD/2019

American Express Banking Corp Vs J.M.L. Marketings Pvt Ltd ?

Date of Decision : 14-02-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 33(2)
Companies Act, 2013 — Section 66

Citation : (2023) 02 NCLT CK 0037

Hon'ble Judges : Praveen Gupta, (J);Ashish Verma Member (T)

Bench : Division Bench

Advocate : Abhishek Devgan, M.K. Maurya, Nishant Mehrotra, Devesh Bhatia,
Deepak Maurya, Saurabh Srivastava, Arjun Sethi

Final Decision : Disposed Of

Judgement

IA NO.263/2022

Ld. Counsels for the parties present.

Ld. Counsel representing the Suspended Board of Director submits that the reply in this matter has been filed with an advance copy to the Ld. Counsel representing the RP. However, the same is denied by the Ld. Counsel representing the RP.

In view of this, Counsel representing the Suspended Board of Director submits that another copy of the reply would be forwarded by way of an e-mail as well as by registered post to the Counsel representing the RP within a period of one week.

Let the Rejoinder, if any, be filed within one week thereafter.

Let the matter to come up for hearing on 22nd March, 2023.

IA NO.386/2022

This is an IA filed under Section 66 of the Code for declaration that the

transactions with the Respondent Nos.1 to 5 and the entities mentioned in the IA as fraudulent. There is an interim direction also sought in this IA for supplying details of contacts and addresses of the entities mentioned in paragraph no.2 of the application by the Suspended Board of Directors, inter alia amongst other prayers.

Let the notice be issued to the respondents.

Ld. Counsel, Sh. Devesh Bhatia representing the respondents accepts the notice and therefore, waives service on behalf of respondent Nos.1 and 2. He further seeks two weeks time to file reply. The notices to the remaining Respondent Nos.3 to 5 be served within two weeks and the affidavit of service be filed within one week thereafter.

Rejoinder to the reply on behalf of Respondent Nos.1 and 2 be also filed within one week after receiving the copy of the reply.

The Ld. Counsel representing the Suspended Board of Director of Respondent Nos.1 and 2 fairly submits that whatever relevant information would be possible to be obtained, will be provided to the RP within one week.

Let the matter to come up for hearing on 22nd March, 2023.

IA NO.430/2022

Ld. Counsel for the RP submits that this is a second progress report ending on 20th November, 2022.

Let the progress report be taken on record.

Accordingly, IA NO.430/2022 stands disposed of.

IA NO.439/2022

This IA has been moved on behalf of the RP for seeking reversal of the amount, which was wrongly debited by the Respondent No.1 and 3 and therefore, to be credited to the account of the Corporate Debtor. The Respondent No.1 i.e. Punjab National Bank has already reversed some amount as recorded in the previous order dated 16th January, 2023.

Today, Ld. Counsel representing the RP submits that whatever amount was remaining to be reversed to the account of the Corporate Debtor, has also been reversed by the Respondent Bank, i.e. Punjab National Bank and therefore, the entire amount stands reversed to the account of the Corporate Debtor.

In view of this, Ld. Counsel representing the RP submits that the present IA becomes infructuous.

In view of the above, IA No.439/2022 is disposed of for having become infructuous.

IA NO.10/2023

On the last date of hearing dated 31st January, 2023, the following order was passed:-

"Ld. Counsel for RP present through VC and submits that there is an assignment of debt by Yes Bank Limited to J.C. Flowers Asset Reconstruction Private Limited and therefore, a change in the constitution of CoC is warranted. He referred to a communication dated 3rd January, 2023 which is Annexure A-6 as well as a communication dated 2nd January, 2023 a date prior to this, as Annexure 5, showing the assignment of the said debt. He however, further submits that since there are large number of debtors with reference to which the assignments are being effected and therefore, there is no specific assignment deed in favour of one transferee/ assignee but there is a consolidated assignment deed and the same is not provided except the communication as referred above.

In view of this, we feel inclined to issue notice to Yes Bank only on the short point of clarifying/ filing an affidavit to the effect of assignment having been made in favour of the assignee as stated in the present IA.

Let the notice be issued within a period of three days and affidavit of service be filed within three days thereafter.

Reply/affidavit be filed within one week."

In compliance to the aforesaid order, an affidavit has been filed on behalf of the Yes Bank and para 2 of the said affidavit, it has been clarified that the Yes Bank Ltd. has irrevocably and unconditionally assigned the financial assets interalia pertaining to the instant Corporate Debtor namely J.M.L. Marketings Pvt. Ltd. in favour of J.C. Flowers Asset Reconstruction Private Limited.

In view of the above, the present IA is allowed.

In view of this, the CoC would take steps for reconstitution/ notification of the CoC accordingly by incorporating the new assignee.

Accordingly, IA NO.10/2023 is disposed of.

IA NO.17/2023

This is an IA under Section 33(2) for initiating the liquidation process in view of the decision of the CoC by a majority of 72.93%.

Arguments have been heard.

Order reserved.

IA NO.374/2022

Ld. Proxy Counsel representing the applicant seeks a short adjournment.

Let the IA NO.263/2022, IA NO.374/2022 & IA NO.386/2022 alongwith main petition to come up for hearing on 22nd March, 2023.