PROCEEDINGS OF THE DAY	17
Day and Date	Wednesday and 04.01.2023
Complaint No.	CR/1770/2021 Case titled as SANJEEV GUPTA Vs SUPERTECH LIMITED
Complainant	SANJEEV GUPTA
Represented through	Shri Shubam Kaushik, Advocate
Respondent	SUPERTECH LIMITED
Respondent Represented through	Shri Bhrigu Dhami Advocate
Last date of hearing	22.09.2022
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The counsel for complainant states that only Eco village -II is under the moratorium and not all the other projects of the corporate debtor. On the contrary, the counsel for respondent states that the moratorium is continuing on all the projects of corporate debtor.

The brief background of the case is as under:

2. 1. The Union Bank of India had preferred a Company Petition CP(IB) bearing NO. 204/(ND) 2021 before NCLT under Section 7 of Insolvency and Bankruptcy Code 2016 against M/s Supertech Ltd. for non-payment of outstanding debt. The NCLT was pleased to admit the insolvency petition by its order dated 25.03.2022. Vide this order the NCLT inter alia initiated CIRP against the corporate debtor, and appointed, Hitesh Goel as the Interim Resolution Professional for the corporate debtor and declared moratorium as per Section 14 of the IBC.

2. Mr. R.K. Arora, the suspended director of the corporate debtor filed an appeal bearing company appeal (AT) (Ins) no. 406 of 2022 on 07.04.2022 before NCLAT against the order dated 25.03.2022. The appeal was subsequently heard on multiple dates and NCLAT had continued the stay on constitution of the CoC till 10.06.2022. The NCLAT vide order dated 10.06.2022 modified the CoC stay order to the extent that the IRP may constitute the CoC only in relation to the project Eco-Village – II of the corporate debtor.

3. An application dated 26.07.2022 from Mr. Hitesh Goel IRP was received stating therein that though all the projects of the corporate debtor apart from ECO village - II would be kept as ongoing project, but the construction of the other projects would continue with overall supervision of IRP with the assistance of ex-management, its employees, and workmen. So, the imposition of moratorium under section 14 of IBC would continue and proceedings of all the cases listed before the authority be adjourned sine die.

4. Vide order dated 12.09.2022, the NCLAT has clarified that "the CIRP order has not been stayed. The Moratorium is continuing" and also vide order dated 14.10.2022, NCLAT made it clear that verification of the claim has to be with regard to all projects and is not only confined to Eco-village -II.

After taking into consideration all the material facts, it is observed that there is a categoric observation to the effect that CIRP has been initiated against the corporate debtor which includes all the assets of the corporate debtor, which are under the control and management of the IRP. The effect of order dated 10.06.2022 is that the CIRP process initiated is corporate debtor centric and not project centric which implies that all the projects of M/s Supertech Limited are covered within the ambit of CIRP and thus, the order of moratorium which as on date has not been modified, is applicable to all the proceeding against corporate debtor.

In view of the facts and circumstances mentioned above and to gain clarity as to what can be done to protect the interest of the allottees., it is directed that

IRP shall be present on the next date of hearing to explain the detailed status of the moratorium imposed upon M/s Supertech Ltd. and to explain whether M/s Supertech Ltd. can demand the outstanding amount in case moratorium is continuing on whole of the company. Further, the authority shall also explore for engaging the services of an expert in NCLT matters to protect the rights and interest of allottees.

Matter to come up on **01.03.2023** for further proceedings.

Sanjeev Kumar Arora
Member

Ashok Sangwan
Member
04.01.2023