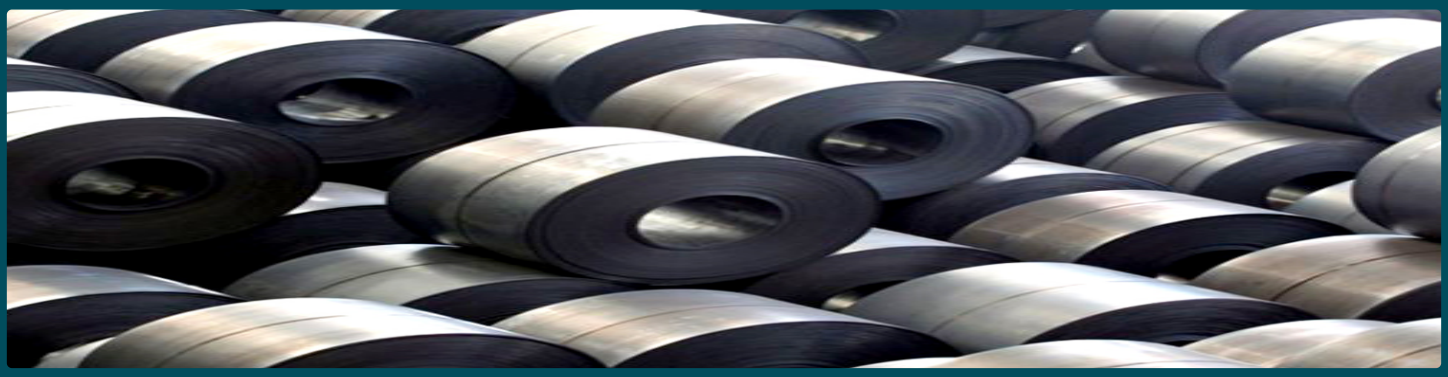
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INSOLVENCY & BANKRUPTCY

NCLAT Dismisses Appeal in Taguda Pte Ltd. Case: A Significant Ruling on Resolution Plan Implementation

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In a landmark decision, the National Company Law Appellate Tribunal (NCLAT) dismissed an appeal filed by Taguda Pte Ltd., a successful resolution applicant (SRA), challenging the National Company Law Tribunal's (NCLT) order directing the implementation of a resolution plan for Ushdev International Limited. The case, Taguda Pte Ltd. v. State Bank of India & Anr. (Company Appeal (AT) (Insolvency) No. 351 of 2024), highlights critical issues surrounding the timely implementation of resolution plans under the Insolvency and Bankruptcy Code, 2016 (IBC).

Background of the Case

The corporate debtor, Ushdev International Limited, was admitted to the Corporate Insolvency Resolution Process (CIRP) on 17.05.2018 by the NCLT, Mumbai Bench, on an application filed under Section 7 by the State Bank of India (SBI). The appellant, Taguda Pte Ltd., submitted a revised resolution plan on 22.06.2021, which was approved by the Committee of Creditors (CoC) with 91.06% vote shares. The NCLT approved the plan on 03.02.2022. However, the implementation of the resolution plan faced challenges due to the non-receipt of necessary approvals from regulatory authorities, including the Reserve Bank of India (RBI).

Key Events Leading to the Appeal

Despite multiple meetings and efforts, the appellant failed to secure the required approvals within the stipulated time. On 08.12.2023, the NCLT passed an order directing the appellant to implement the resolution plan within two months. The appellant challenged this order before the NCLAT, arguing that the NCLT's order modified the resolution plan's implementation timeline, which was beyond its jurisdiction.

Rival Contentions

The appellant contended that the resolution plan could not be implemented due to the non-receipt of necessary approvals from the RBI, which was a condition precedent. The appellant argued that the closing date for the implementation of the resolution plan would only commence after all government approvals were granted. The respondent SBI, countered that the appellant had failed to obtain necessary regulatory approvals within the stipulated period, leading to a breach of the resolution plan. The respondents highlighted that the resolution plan was approved on 03.02.2022, and more than three years had elapsed without implementation, necessitating liquidation proceedings.

PNB's Submissions and NCLAT's Observations

Punjab National Bank (PNB), as the authorized dealer of the corporate debtor, was central to seeking the necessary regulatory approvals from the Reserve Bank of India (RBI). PNB submitted that it had taken all necessary steps to secure the required regulatory approvals for the resolution plan of Ushdev International Limited. However, the RBI did not grant the approval due to certain regulatory contraventions related to the issuance of corporate guarantees and proposed capital account transactions requiring compounding. PNB highlighted that it had applied for the regulatory approval but did not receive it, which delayed the implementation of the resolution plan.

The NCLAT observed that despite PNB's efforts, the RBI's non-approval was due to regulatory issues that needed to be addressed. The tribunal noted that the resolution applicant, Taguda Pte Ltd., had failed to secure the necessary approvals within the stipulated period as mandated under Section 31(4) of the Insolvency and Bankruptcy Code, 2016 (IBC). This failure led to delays in implementing the resolution plan. NCLAT emphasized that the obligation to obtain regulatory approvals rested with the resolution applicant, and the one-year period prescribed under Section 31(4) of the IBC had expired. The tribunal concluded that the resolution plan could not be implemented solely on the pretext of pending RBI approval, especially since the applicant had not demonstrated sufficient progress in securing the necessary approvals .

Legal Provisions and Judgments Relied Upon

The NCLAT relied on several legal provisions and judgments, including Section 31(4) of the IBC, which mandates that the resolution applicant must obtain all necessary approvals under any law within one year from the date of approval of the resolution plan. The tribunal also referred to Clause 3.1 of the Request for Resolution Plan (RFRP), which specifies that the resolution applicant is responsible for obtaining all necessary statutory and regulatory approvals. The NCLAT cited the judgment in

Independent Sugar Corporation Ltd. v. Girish Sriram Juneja & Ors., which interpreted the provisions of Section 31(4) and emphasized the importance of obtaining prior approvals .

Analysis of the Court

The NCLAT analysed the case by noting that the resolution plan was approved on 03.02.2022, and the appellant had failed to obtain necessary approvals within the statutory period of one year. The tribunal observed that the NCLT's order granting an additional two months for implementation did not amount to a modification of the resolution plan but rather provided an extension to fulfil the plan's conditions. The NCLAT noted that the appellant's failure to secure regulatory approvals and deposit the required funds indicated a lack of capacity to implement the plan. The tribunal also highlighted that the appellant had sought multiple extensions and had not shown sufficient progress in obtaining the necessary approvals.

Final Decision

The NCLAT dismissed the appeal, holding that the NCLT had the jurisdiction to direct the appellant to implement the resolution plan within a specified timeframe. The tribunal concluded that the appellant's failure to obtain necessary approvals within the stipulated period justified the initiation of liquidation proceedings. The NCLAT requested the NCLT to decide the pending liquidation application at an early date, preferably within three months from the date of the order .

Conclusion

The NCLAT's decision in Taguda Pte Ltd. v. State Bank of India & Anr. elaborates the importance of timely implementation of resolution plans under the IBC. The tribunal's ruling highlights the critical need for resolution applicants to adhere to statutory timelines and obtain necessary regulatory approvals promptly. This case sets a precedent for future insolvency proceedings, emphasizing the NCLT's jurisdiction to enforce resolution plans and the consequences of failing to meet regulatory requirements.

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