

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 346 of 2018

IN THE MATTER OF:

Union of India **...Appellant**

Vs.

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

**Present: For Appellant: - Mr. Sanjay Shorey, D(L&P), Ministry of
Corporate Affairs.**

**Mr. Sarojanand Jha and Ms. Purva Kohli, Advocates for
impleaders.**

**For Respondents:- Mr. Ramji Srinivasan, Senior
Advocate with Ms. Gauri Rasgotra, Mr. L. Vishwanathan,
Mr. Raunak Dhillon, Mr. Vikash Kumar Jha, Mr. Karan
Khanna, Mr. Aditya Sikka and Ms. Ananya Dhar
Choudhury, Mr. Bunmeet Singh Grover, M/s. Cyril
Amarchand Mangaldas, Advocates for R-1.**

**Mr. Sanjay Kapur, Ms. Megha Karnawal and Mr. Bharath
Gangadharan, Advocates for SBI.**

**Mr. Raghav Seth and Ms. Vatsala Rai, Advocates for R4-
R8.**

Mr. Ashish Rana, Advocate for Exim Bank.

**Mr. P.V. Dinesh and Mr. R S Lakshman, Advocates for
Intervenors.**

**Mr. Vishnu Sharma and Mr. Sourav Roy, Advocates for
Noida Authority.**

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Present: For Appellant: - Mr. Ramji Srinivasan, Senior Advocate with Ms. Gauri Rasgotra, Mr. L. Vishwanathan, Mr. Raunak Dhillon, Mr. Vikash Kumar Jha, Mr. Karan Khanna, Mr. Aditya Sikka and Ms. Ananya Dhar Choudhury, Mr. Bunmeet Singh Grover, M/s. Cyril Amarchand Mangaldas, Advocates for R-1.

Mr. Sarojanand Jha and Ms. Purva Kohli, Advocates for impleaders.

For Respondents:- Mr. Sanjay Kapur, Ms. Megha Karnawal and Mr. Bharath Gangadharan, Advocates for SBI.

Mr. Vishnu Sharma and Mr. Sourav Roy, Advocates for Noida Authority.

ORDER

11.01.2019— As it appears that the process required to be followed which may be similar to that of ‘Corporate Insolvency Resolution Process’ for the purpose of proper resolution of the ‘Infrastructure Leasing and Financial Services Limited’- (‘Corporate Debtors’) and its Group Companies and in such case, a ‘Committee of Creditors’ may be required to be constituted for determining the viability, feasibility and financial matrix of the plan or offer, if any, given by one or other party for acquisition of one or other Group Companies or its assets and in absence of any knowledgeable person like ‘Resolution Professional’, such ‘Committee of Creditors’ cannot be constituted and in the meantime, the ‘Infrastructure Leasing and Financial Services Ltd.’ (‘ILFS’ for short) and its Board may be allowed to proceed with the matter. In such case, the

parties are directed to address as to why this Appellate Tribunal will not direct that while matter to be supervised by a (Retired) Hon'ble Supreme Court Judge.

2. So far as the pending arbitration proceedings are concerned, if any pending before one or other Arbitral Tribunal in which the 'ILFS' or any of its 348 Group Companies are parties, in such case, the Arbitral Tribunal may proceed with to determine the claim and counter claim, if any, made by the parties and may pass the award, and keep it in a seal cover. The Arbitral Tribunal are also prohibited to pass any order under Section 17 of the Arbitration & Conciliation Act, 1996 against 'ILFS' or any of its Group Companies. Sealed cover will be kept till the final decision of the petition under Sections 241 & 242 of the Companies Act, 2013 pending before the National Company Law Tribunal, Mumbai Bench. However, if the award is given in favour of the 'ILFS' or any of its Group Companies, in such case, the award need not be kept in a sealed cover, even during the pendency of the Company Petition.

3. 'IFLS' will provide the details of arbitral proceedings filed by it or by any of its Group Companies or filed against 'ILFS' or any of its Group Companies by the next date.

Post both the appeals on 28th January, 2019 at 2.00 p.m. when the main appeals are also likely to be listed.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/g