

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

**MA 1173/2018
in C.P. No. 3638(MB)/2018**

Under Section 241 and 242 of the
Companies Act, 2013

In the matter of

**Union of India,
Ministry of Corporate Affairs**

... Petitioner

v/s.

Infrastructure Leasing And Financial Services Limited	...	R1
Mr. Hari Sankaran	...	R2
Mr. Arun K. Saha	...	R3
Mr. Sunil Behari Mathur	...	R4
Mr. Ravindra Chandra Bhargava	...	R5
Mr. Michael Philip Pinto	...	R6
Mr. Jaithirth Rao	...	R7
Ms. Rina Kamath	...	R8
Mr. Ravi Ramaswamy Parthsarathy...		R9
Mr. Maharudra Manohar Wagle	...	R10
Ms. Varsha Shivaji Sawant	...	R11

Order delivered on 12.10.2018

Coram: Hon'ble Shri. V.P. Singh, Member (Judicial)
Hon'ble Shri. Ravikumar Duraisamy, Member (Technical)

For the Petitioner : Shri Sanjay Shorey,
Director (Legal & Prosecution)
Shri Manmohan Juneja,
Regional Director (WR), MCA.
Shri Rakesh Tiwari (RoC, Mumbai)
Shri. Parvez Naikwadi
(Asstt. Director, MCA).
Shri. S. Ramakantha,
Jt. Director (WR), MCA.
Shri. Anil Yadav,
Dy. Registrar of Companies, Mumbai.

For the Respondent: Mr. Ravi Kadam, Sr. Counsel a/w
Mr. L. Viswanathan }
Mr. Hariharan Kumar }
Mr. Sharad Mathkar, Adv. } i/b Cyril Amarchand
Mr. L. Viswanathan, Adv. } Mangaldas
Mr. Aditya Sikka, Adv. } for Resp.- 1
Ms. Priyanka Mitra, Adv. }

Mr. Mustafa Doctor, Sr. Counsel a/w
Mr. Akash Karmarkar
i/b Khaitan & Co. – for Intervener.

Per V.P. Singh, Member(Judicial)

ORDER

MA 1173/2018 has been filed by the Union of India about the CP 3638/2018 in the matter of Union of India v. IL&FS Ltd.

2. The Petitioner filed this application seeking comprehensive moratorium qua R1 Company and the group Companies of R1 for three months or such other period against the following acts:

- (i) The institution or continuation of suits or any other proceedings by any party against R1 Company and any of the group companies in any Court of Law/Tribunal/Arbitration Panel or Arbitration Authority; and
- (ii) Any action by any party to foreclose, recover or enforce any security interest created over the assets of R1 Company and / or any of the group companies including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (iii) The acceleration, premature withdrawal or other withdrawal, invocation of any term loan, corporate loan, bridge loan, commercial paper, debentures, fixed deposits, guarantees, letter of support, commitment or comfort and other financial facilities or obligations vailed by R1 Company and /or the group companies whether in respect of the principal or interest or hedge liability or any other amount contained therein.

3. Union of India has stated that by the present application the applicant seeks moratorium for a period of 3 months against the institution or continuation of suits or any other proceedings by any

party against R1 Company or any of the group Companies in any Court of Law/Tribunal/Arbitration Panel or Arbitration Authority and further protection against any action by any party to foreclose, recover or enforce any security interest created over the assets of R1 Company or any other group Company. A moratorium has also been sought against the acceleration/premature withdrawal or other withdrawal, invocation of any term loan, corporate loan, bridge loan, commercial debt, fixed deposits, guarantees, letter of support, commitment or comfort and other financial facilities or obligations availed by R1 Company or the group Companies whether in respect of the principal/interest or hedge liabilities.

4. It is further stated in the application that R1 Company operates as holding company across various business through more than 348 group companies primarily spanning across among other things roads, power, engineering, financial services, maritime and urban development sectors. Some of the key group companies of R1 Company are

- (a) IL&FS Transportation Networks Ltd. (ITNL) which, through further step down special purpose vehicles, has business, activities ranging from developer, sponsor, construction manager and operator of surface transportation infrastructure taking greenfield projects from conceptualisation through commissioning to operations and management of such projects. ITNL develops projects on build operate and transfer basis and is the largest vertical holding about 40% of the total assets of the Group Companies.
- (b) IL&FS Financial Services Ltd. (IFIN), which contributes approximately 14.16% of the assets of the group) is a systemically important Non-Banking Financial Company (NBFC) registered with the Reserve Bank of India. IFIN

contributes about 14.16% to the assets of R1's group Companies.

- (c) IL&FS Energy Development Company Ltd. (IEDCL) operates in the power sector through its step down subsidiaries and develops, owns and operates power generation and transmission assets in India and abroad. IL&FS Tamilnadu Power Company Ltd. (ITPCL) is another subsidiary of R1 Company and is engaged in implementation of the thermal power project at Cuddalore.
- (d) Noida Toll Bridge Limited is a listed subsidiary of R1 Company with 50.42% equity share capital. IL&FS Engineering Construction Co. Ltd. is into multinational infrastructural development and construction business.

5. It is further submitted that R1 Company and the group Companies are facing a liquidity crunch with no immediate source of funding. The said liquidity crunch has led to an inability to service the debt obligations across the R1 Company's group companies. Briefly stated, the cause of liquidity crunch arises from the chain of events which triggered across various group companies of R1 Company such as ITNL, IFIN and IEDCL simultaneously depleting the surplus funds of the corresponding group companies as also R1 Company.

6. The R1 Company has stated that ITNL has been in default on its debt obligations since 30.06.2018. R1 Company has been in default on its debt obligations since 25.08.2018. The key subsidiary of R1 Company (engaged in the financial services vertical) has been in default since 12.09.2018 and IEDCL has defaulted on its payment obligations since 22.08.2018.

7. It has further stated that apart from the defaults mentioned above, the steady decline of R1 Company became apparent from the consolidated balance sheet of R1 Company for the year 2017-18. Pertinently, net loss of Rs. 2,670 crores was reported for the year 2017-2018 and borrowings of about Rs. 91,000 crores against Rs. 6,950 crores in equity share capital and reserves. There was significant increase in the amount of receivables due from various group companies of R1 Company and IFIN.

8. It has further stated that the decline in financial health of R1 Company has also noticed by the credit rating agencies which drastically downgraded the credit rating of R1 Company, ITNL and IFIN. Subsequently, on 30.09.2018 Dept. of Economic Affairs noted the tremors that were felt with the defaults by R1 Company and its group companies in the financial market in the country. The said note further indicated that given the critical importance of R1 Company and the group Companies in the financial markets were heading towards catastrophe. Under the circumstances, Union Govt. of India moved an application before this Tribunal under Section 241(2) of the Companies Act, 2013 seeking suspension of the then existing Board of Directors of R1 Company and appointment of fresh Board of Directors for R1 Company. This Tribunal by an order dated 1.10.2018 has suspended existing Board of Directors of R1 Company and authorised reconstitution of Board of Directors with six persons nominated by the Union of India. By further order dated 03.10.2018 this Tribunal granted permission to appoint seventh director. Further, by order dated 5.10.2018, this Tribunal issued certain protective and enabling orders in respect of its newly appointed directors.

9. Union of India has stated that the newly appointed Board is likely to face certain problems relating to R1 Company and its group companies spanning across various sectors with each sector having

their technicalities. There may be a need to rationalise/rethink business processes and strategies that may ensure effective and more efficient manner of functioning. Assets would need to be assessed, rationalized and steps taken to make a roadmap to preserving the fair value of assets, rebuilding trust of different stakeholders by providing a fair resolution mechanism. The Board will need to look at all possible options to resolve the complexities involved to ensure fair value and best interest of different stakeholders including but not limited to sale of assets and recovery of claims.

10. It is further stated that presently legal framework does not facilitate making of the necessary application under the Insolvency and Bankruptcy Code, 2016 (IBC) for resolution of R1 Company as IBC does not address resolution relating to financial service providers. Further, while the Central Government has the power under section 227 of IBC to notify certain categories of financial service providers who may be subject to the provisions of the IBC, no such notification has been issued by the Central Government till date. This manifests the intention the financial service providers are to be kept out of the purview of the IBC and that a separate framework is required for the resolution of such entities. The Financial Resolution and Deposit Insurance Bill, 2017 (FDI) was tabled in the Lok Sabha on 10.08.2017 is specifically for the resolution of the financial institutions including NBFCs Where as the FRDI Bill itself has been withdrawn in July 2018. The statement of Objects & Reasons of the Bill demonstrates the necessity for providing a separate framework for financial service providers.

11. Further, the IBC does not provide for a joint resolution of group of companies as in the present case. The resolution of R1 Company and its group companies as a whole is inextricably linked to the resolution of each of these companies. The Companies Act, 2013

has also been amended and there is no power to wind up a company on account of defaulting on its debt and the only recourse is to initiate insolvency proceedings under the IBC, though this option is not available in respect of financial service providers.

12. The Petitioner has contended that to effectively implement the directions of this Tribunal, the newly appointed Board of Directors required that status quo be preserved qua the business and assets of R1 Company and its group companies.

13. It is further submitted that in the light of the financial crisis which R1 Company was undergoing, the Applicant is given to understand that large numbers of creditors have threatened and some creditors have instituted legal proceedings against R1 Company and its group Companies. Some proceedings sprouted against the R1 Company and its group companies. A Petition u/s 45 QA of the Reserve Bank of India Act, 1931 has been lodged by Small Industries Development Bank of India Ltd., against IFIN before this Tribunal. Further a Petition u/s 241-242 read with Section 210 and 213 of the Companies Act, 2013 has been filed by one Enso Rail Infrastructures Pvt. Ltd. among other things against IL&FS Rail Ltd. Further proceedings by creditors and other persons are apprehended in Courts/tribunals pan India. As per the details and particulars provided to the Applicant on a best efforts basis by R1 Company.

14. By a letter dated 11.10.2018 the Applicant has been informed by the R2 and the R1 Company and its group companies have received letters or written communication from approximately 49 different creditors including bond-holders, many of whom have accelerated payments under financial facilities extended and demanded payment forthwith under threat of legal proceedings against R1 Company and the corresponding group companies. Some

financial institution creditors who are banks of R1 Company or the group companies have accelerated payment under the financial facilities extended for diverse reasons and claimed that the default has entitled the corresponding banks/financial institution to set off balances lying in the current and other accounts and/or deposits maintained by R1 Company / corresponding group companies against the outstanding amounts under the right of bankers lien.

15. It is further contended that it is necessary to declare moratorium qua R1 Company and group companies prohibiting the institution or continuation of any legal proceedings before any Court, Tribunal, Arbitral Panel or Authority.

16. We have heard the arguments of Mr Ravi Kadam, Sr. Counsel, Mr Sanjay Shorey (Director – Legal & Prosecution) and arguments advanced by the Sr. Counsel for Intervener Mr Mustafa Doctor and perused the record.

17. It appears that Petitioner is seeking moratorium qua R1 Company and the group Companies, to protect the institution and continuation of any legal institution or continuation of any legal proceedings before any Court, Tribunal, Arbitral Panel or Authority. The reliefs sought by Petitioner resembles with the moratorium provided u/s 14 of the Insolvency & Bankruptcy Code which provides that if the petition is admitted u/s 14 of the IBC, then moratorium order shall come into effect for the following purposes:

- (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

18. Now applicant UOI is seeking moratorium order in this case on the basis that R1 Company is financial service provider and IBC do not apply for the financial service providers. Therefore, they have moved the application u/s 241(2) of the Companies Act, 2013 for seeking moratorium order. It is further stated in the Application that present legal framework does not facilitate making the necessary application under the IBC for resolution of R1 Company as the IBC does not address resolution relating to financial service providers. It has also stated that Central Government has the power u/s 227 of the IBC to notify certain categories of the financial service providers who may be subject to the provision of the IBC. Since no such notification has been issued by the Central Government till date, therefore, Petitioner has moved this application u/s 241 and 242 of the Companies Act, 2013. It is further stated that IBC does not provide joint resolution of the group companies as in the present case. Therefore, the resolution of R1 Company and its group companies as a whole is inextricably linked to the resolution of each of these companies, and there is no power to wind up a company on account of it defaulting on its debt. Thus, the only recourse is to initiate the insolvency proceedings under IBC for this is not available in respect of financial service providers.

19. The contention of the Petitioner is mainly that the R1 Company is a financial service provider and for resolution of R1 Company and its group companies for restructuring of debt, Insolvency and Bankruptcy Code is not applicable and there is no provision for filing a petition for winding up of company on the ground of inability to pay its debt under Companies Act, 2013 . Therefore, winding up petition is also barred in case of default by the company. Thus, the only option for resolution plan would have been the proceeding under IBC to initiate insolvency proceedings, but this option is not available in the present case because R 1 company is a financial service provider.

20. We are of the considered view that if the Petition is filed under IBC for initiating insolvency proceeding then after admission of the petition and on initiation of insolvency proceedings moratorium order under IBC becomes applicable. The Union of India's contention is that since it has not notified the financial service provider, therefore IBC is not applicable to the financial service providers for want of notification from Govt. of India. Thus they have no option except to approach this Tribunal for seeking declaration of moratorium for restructuring of debts of R1 and its group companies.

21. When a moratorium order u/s 14 of IBC is provided, then it prohibits institution or continuation of any legal proceedings against the Corporate Debtor, including execution of any judgment/decreed or order in any Court of law, Arbitration Panel or other Tribunal, Arbitration Authority. The moratorium order under IBC further prevent transferring, encumbering, alienating or disposing of or by the corporate debtor or any action to foreclose, recover or enforce any security interest during moratorium period. But the statutes provide such moratorium under the Insolvency and bankruptcy code

2016. But no such provision of moratorium is provided under Companies Act, 2013 to protect the financial service providers in case of restructuring of its debt.

22. It is also pertinent to mention that some of the group companies are already undergoing Corporate Insolvency Resolution Process. Further the bench is of the opinion that under IBC for each company an application has to be made to initiate CIRP and a blanket moratorium order cannot be passed against all the 348 companies in the absence of 348 application/ petitions.

23. The moratorium orders which can be passed under the IBC cannot be extended under section 241-242 of the Companies Act, 2013. Powers under section 242 of the Companies Act, 2013 can be exercised by NCLT only in case the affairs of the company have been or being conducted in a manner prejudicial or oppressive to any member or members or prejudicial to public interest or in the manner prejudicial to the interests of the company. In such circumstances the Tribunal may, with a view to bringing to an end the matters complained of make such orders as it things fit. In this case this tribunal has exercised this power under section 242 of the Companies Act 2013 on being satisfied that the affairs of the company is mismanaged, therefore the then existing board of R1 Company was suspended, and the nominated directors were appointed on the recommendation of the Government.

24. It is pertinent to mention that section 241 of the Companies Act, 2013 provides that if on any application made u/s 241, the Tribunal is of the opinion that the company's affairs have/ are conducted in a manner prejudicial, oppressive to any member/members or prejudicial to public interest or in any manner prejudicial to the interests of the company , then the tribunal may

with a view to bring to an end of the matters complained of make such orders as it think fit.

25. The provision of section 242 provides that it can be invoked **when the matter is complained of** u/s 241 of Companies Act, 2013. In this case, the remedy has already been granted after being satisfied that the affairs of the company are mismanaged. The suspension of the existing board was under the powers of section 242 of the Companies Act 2013. However, it is to be clarified that section 241 or 242 of the Companies Act, 2013 can be no way compared with the provision of moratorium order given u/s 14 of the IBC. It is also important to mention that section 238 of the IBC provides overriding effects against any law which is inconsistent with the provision of Insolvency And Bankruptcy Code. But the Companies Act, 2013 does not have such overriding effect and we also do not find any inconsistency with the IBC .

26. In the circumstances, we are of the considered view that the moratorium which has been sought by the Union of India by an application u/s 242 of the Companies act 2013 cannot be granted. In the circumstances MA No. 1173/2018 in CP 3638/2018 with prayer for issuing moratorium is rejected. MA disposed of accordingly.

SD/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

SD/-

V.P. SINGH
MEMBER (JUDICIAL)

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. Tushar Mehta, Solicitor General with Mr. Sanjay Shorey, Director (Legal & Prosecution) MCA, Mr. S. Ramakantha, Joint Director (Regional Director, WR), Mr. Parvez Naikwadi, Assistant Director (MCA), Mr. Kanu Agrawal, Advocate.

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, Advocates for R-1.

WITH

Company Appeal (AT) No. 347 of 2018

IN THE MATTER OF:

**Infrastructure Leasing and
Financial Services Ltd.**

...Appellant

Vs.

Union of India & Ors.

...Respondents

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, Advocates.

For Respondents: - Mr. Tushar Mehta, Solicitor General with Mr. Sanjay Shorey, Director (Legal & Prosecution) MCA, Mr. S. Ramakantha, Joint Director (Regional Director, WR), Mr. Parvez Naikwadi, Assistant Director (MCA), Mr. Kanu Agrawal, Advocate.

ORDER

15.10.2018— These appeals have been listed on urgent mentioning and taken up for admission even on a holiday taking into consideration the nature and importance of the appeals.

2. From the impugned order dated 12th October, 2018 in MA 1173/2018 in C.P. No. 3638(MB)/2018, we find that the National Company Law Tribunal ('Tribunal' for short) while accepted that no petition under any of the provision of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) can be preferred by any party for initiation of 'Corporate Insolvency Resolution Process' against 'Infrastructure Leasing and Financial Services Limited' ('IL&FS' for short) and its 348 Group Companies till the Central Government issue appropriate notification with regard to one or other making the provisions applicable to them, refused to pass the interim order in view of prayer of 'Moratorium' made by the Appellant- 'Union of India'. Otherwise the Tribunal has appreciated the difficulties which are being faced by the 'IL&FS' and its 348 Group Companies.

3. The questions arise for consideration in these appeals are:

(i) Whether the Tribunal can pass appropriate order under Section 241 read with Section 242 of the Companies Act, 2013 for resolution of the problems faced by the Company in a time-bound manner for maximisation of value of assets of the Company, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders, and in case of failure of resolution pass appropriate order of liquidation; and

(ii) Whether the Tribunal in exercise of powers conferred Under Section 242 (1) (b) read with Section 242 (2)(m) and Section 242(4) of the Companies Act, 2013 read with Rule 11 of the National Company Law Tribunal Rules, 2016, can pass appropriate interim order similar to order under Section 14 of the Insolvency and Bankruptcy Code, 2016.

4. According to Mr. Tushar Mehta, Learned Solicitor General for the Appellant- 'Union of India' and Mr. Ramji Srinivasan, Learned Senior Counsel for the 'IL&FS', the Tribunal has much wider power under Sections 241 and 242 of the Companies Act, 2013 than the powers vested under provisions of Insolvency and Bankruptcy Code, 2016.

5. Taking into consideration the nature of the case, we are of the view that five largest creditors should be also impleaded as party Respondents

to these appeals in the representative capacity of the Creditors. Learned counsel for the Appellant(s) will make necessary correction in the cause title and other pages of the appeals in course of the day. Defects, if pointed out by office, may be removed before the next date.

6. Issue notice on Respondents, including newly impleaded Respondents by speed post. Requisite along with process fee, if not filed, be filed in course of the day. If the Appellant(s) provides the e-mail address of Respondents, let notice be also issued through e-mail. Dasti service is permitted particularly in the newly impleaded Respondents.

Post these appeals 'for admission' on 13th November, 2018 on the top of the list.

Taking into consideration the nature of the case, larger public interest and economy of the nation and interest of the Company and 348 group companies, there shall be stay of

- (i) The institution or continuation of suits or any other proceedings by any party or person or Bank or Company, etc. against 'IL&FS' and its 348 group companies in any Court of Law/Tribunal/Arbitration Panel or Arbitration Authority; and
- (ii) Any action by any party or person or Bank or Company, etc. to foreclose, recover or enforce any security interest created over

the assets of 'IL&FS' and its 348 group companies including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- (iii) The acceleration, premature withdrawal or other withdrawal, invocation of any term loan, corporate loan, bridge loan, commercial paper, debentures, fixed deposits, guarantees, letter of support, commitment or comfort and other financial facilities or obligations vailed by 'IL&FS' and its 348 group companies whether in respect of the principal or interest or hedge liability or any other amount contained therein.
- (iv) Suspension of temporarily the acceleration of any term loan, corporate loan, bridge loan, commercial paper, debentures, fixed deposits and any other financial facility by the 'IL&FS' and its 348 group companies by any party or person or Bank or Company, etc. as of the date of first default.
- (v) Any and all banks, financial institutions from exercising the right to set off or lien against any amounts lying with any creditor against any dues whether principal or interest or otherwise against the balance lying in any bank accounts and deposits, whether current or savings or otherwise of the 'IL&FS' and its 348 group companies.

The interim order will continue until further orders and not be applicable to any petition under Article 226 of the Constitution of India before any Hon'ble High Court or under any jurisdiction of the Hon'ble Supreme Court.

(Justice S.J. Mukhopadhaya)
Chairperson

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

AR/g

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 & Financial
Services Ltd. & Ors.

....Respondents

Present:

For Appellant:

Mr. Sanjay Shurey, D(L&P), Mr. Parvez Naikwadi, Advocate (MCA) Mr. Rakesh Tiwari, ROC Mumbai, Mr. Meghav Gupta, LP, MCA (Union of India).

Mr. Abhishek Manu Singhvi, Senior Advocate assisted by Mr. Diwakar Maheshwari, Mr. Awishkar Singhvi, Mr. Rajeev Vidhani, Ms. Shreyas, Mr. Ashwij Rammaiya and N. Swami Nathan Advocates for IndusInd Bank Applicant in I.A. No.1815/2018.

Mr. Ashish Prasad, Mr. Mahfooz Nazki and Mr. Sangam Saxena, Advocate for Applicant in I.A. No.1935-35/2018 – ICBC

Mr. Virender Ganda, Senior Advocate assisted by Mr. Rajnish Sinha and Mr. Nikhil Jain, Advocates for Intervener M/s EMO Infrastructure Pvt. Ltd.

For Respondent:

Mr. Ramji Srinivasan, Senior Advocate with Mr. Cyril Shroff, 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, Advocates for IL&FS-Respondent No.1

Mr. Debal Banerjee, Senior Advocate assisted by Mr. Pankaj and Ms. Bidyarami, Advocates for Bank of Baroda.

Mr. Amit Mishra, Ms. Samridhi Hota, Mr. Mohit Singh and Ms. Kanika, Adocates for ICICI Bank.

Ms. Anindita Roy Choudhary and Mr. Raghav Seth, Advocate for Respondent Nos.4, 5, 7 & 8.

Mr. Sanjay Kapur, Ms. Megha Karnwal and Ms. Sheena, Advocate for SBI.

Mr. R.B. Trivedi, Advocate with Ms. C.R. Latha, AGM (BOI).

Mr. Pallav Saxena Saxena, Mr. Anshuman, Mr. Syed, Mr. Prateek Khaitan, Advocates for J&K Bank.

Mr. Manoj Sharma, Mr. Praveen Verma and Ms. Shelly Gupta, Advocates for Respondent No.14 (Power Finance Corporation).

Mr. Arun Kathpalia, Senior Advocate assisted by Ms. Bani Brar, Ms. Pritika Malhotra and Mr. Siddharth Nath, Advocates for ICICI Bank.

Company Appeal (AT) No. 347 of 2018

IN THE MATTER OF:

Infrastructure Leasing and Financial Services Ltd.

...Appellant

Vs.

Union of India & Ors.

...Respondent

For Appellant:

Mr. Ramji Srinivasan, Senior Advocate with Mr. Cyril Shroff, 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, Advocates.

Mr. Rajeev Mehra, Senior Advocate with Mr. Ajay Bhargava, Ms. Vanita Bhargava, Mr. Aseem Chaturvedi,, Mr. Arvind Ray and Mr. Karan Gupta, Advocates for Applicant in I.A. No.1793/2018.

Mr. Virender Ganda, Senior Advocate assisted by Mr. Rajnish Sinha and Mr. Nikhil Jain, Advocates for Intervener M/s EMO Infrastructure Pvt. Ltd.

For Respondents:

Mr. Sanjay Shurey, D(L&P), Mr. Pravez Naikwadi, Advocate (MCA) Mr. Rakesh Tiwari, ROC Mumbai, Mr. Meghav Gupta, LP, MCA (Union of India).

Mr. Manoj Sharma, Mr. Praveen Verma and
Ms. Shelly Gupta, Advocates for Respondent
No.14 (Power Finance Corporation)

Mr. Debal Banerjee, Senior Advocate assisted
by Mr. Pankaj and Ms. Bidyarami, Advocates
for Bank of Baroda.

ORDER

13.11.2018: Instead of passing any order for the present, it will be desirable to hear the appeals on merit and disposing of at an early date. The Respondents may file their reply affidavit within two weeks. Rejoinders, if any, may be filed by Appellants within a week thereof.

The Interveners, Financial Creditors or Share Holders may address the Court on the question of law without filing any petition for intervention.

Post these appeals on 17th December, 2018 at 02:00 PM on top of the list.

In the meantime, it will be open to the parties to file short written submissions not more than three pages.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)