

**NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH**

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CP No. 139/MB/2020

**IDBI Trusteeship Services Ltd.
V/s
Reliance Home Finance Ltd. & Reliance Capital Ltd.**

*** *** ***

Dated 11th January, 2021

ORDER

The matter is taken up on VC. Mr. Pratik Seksaria, Counsel for the Petitioner, Mr. Sarosh Bharucha, Counsel for the Respondent No. 1 and Mr. Tushad Kakalia, Counsel for the Respondent No. 2 are present.

Heard the argument from both the sides. It is submitted by the Ld. Counsel appearing for the Respondents that the Resolution of the Respondent No. 1 is being undertaken since 2019 under the RBI Guidelines by the lenders including the Debenture Holders (of which the Petitioner is one). The process however got delayed due to the Covid-19 situation. Meanwhile, 5 to 6 bids have been received and are due to be considered on 15/01/2021. It is further submitted that process would be completed within a period of two months. Thus, he requested that the decision in the matter may be deferred till such time.

It is objected to by the Counsel for the Petitioner. He submitted that as per the Judgment of the Hon'ble NCLAT in the Case of *Akhil R. Kothakota and another v. M/s Tierra Farm Assets Company Pvt. Ltd.* (Company Appeal (AT) No. 39 of 2020 decided on 09.11.2020) in a Petition u/s 71 (10) of the Companies Act financials of the Company need not be looked into. The Hon'ble NCLAT has in fact deprecated passing of any order other than one under section 71 (10) of the Act. The scope of the provision is limited and no other consideration can be taken. Considering the peculiar facts and circumstances of

this case and the fact that all the lenders including the Debentures Holders are in the process of finalising Resolution of the Company, it will be appropriate for this Bench not to pass any orders and momentarily await the Resolution, if any, to come through, which in our opinion may be beneficial to all the stakeholders including the Debentures Holders. It is settled law that when technical considerations are pitted against substantial justice, cause of substantial justice needs to be preferred. In this connection reference may be made to the observation of the Hon'ble Apex Court in **Sardar Amarjit Singh Kalra (dead) by LRs and Ors. v. Pramod Gupta (Smt.) (dead) by LRs. and Ors.:** (2003) 3 SCC 272 to the following effect.

“Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.”

We feel it appropriate that cause of substantial justice would be served by adjourning the matter. Such action in our opinion would not run contrary to the observation of the Hon'ble NCLAT in as much as we are not disposing of the matters by directing for a settlement. Accordingly list this matter on 12/03/2021 awaiting decision on the consideration of the Resolution bids, if any.

It will not be for this Bench to grant any further time and after 12/03/2021 orders as deemed fit shall be passed.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
JANAB MOHAMMED AJMAL
Member (Judicial)

Steno: Vedant Kedare