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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13278/2024**

GATEWAY INVESTMENT MANAGEMENT SERVICES LTD.Petitioner

Through: Mr. Saurabh Kirpal, Sr. Adv.
with Mr. Vaibhav Mishra, Mr.
Ekansh Mishra and Ms. Udit
Singh, Advs.

versus

RESERVE BANK OF INDIA & ORS.Respondents

Through: Mr. Jayant Mehta, Sr. Adv.
along with Mr. Dhruv Malik,
Ms. Aditi Sinha and Mr.
Rajnandini Singh, Advs. for
R-2.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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04.10.2024

**REVIEW PET. 367/2024 – FRESH BY PETR. FOR REVIEW OF
ORDER DT. 23.09.2024**

1. The applicant/petitioner has filed the present application seeking review on certain aspects contained in the order dated 23.09.2024 delivered by this Court.
2. Learned Senior counsel for the respondent No.2 is present on advance notice through video conferencing.
3. Having heard the learned Senior counsels for the parties and on perusal of the record, this application comes up for disposal.
4. Without reproducing the contents of the previous order for the sake of brevity, at the outset, paragraph (3) of the order requires



modification to the effect that petitioner had made a revised offer to make payment of the second instalment to the extent of 75% within 90 days during the time when deliberations were going on before the CoC¹. It was inadvertently recorded that the revised offer was made to make payment of second instalment of ₹ 75 crores within 90 days. Learned senior counsel for the respondent no. 2 has no objection. Hence, paragraph (3), shall stand reviewed and corrected to that extent.

5. Suffice to state that there are sought review on two more aspects in the earlier order. It is submitted by Mr. Saurabh Kirpal, learned Senior Advocate for the applicant/petitioner that statement of the learned Senior Advocate for the petitioner is wrongly recorded in paragraph (15) to the effect that he had made *“an offer that it was willing renew its offer and match the offer given by the successful Resolution Applicant in every aspect”*. It is urged now that the statement was that they have rather been willing to make an improved or a better offer than was what has been made by SRA². As a necessary corollary, it is also sought to be canvassed now that it was also urged that they may be allowed to make a renewed offer before the CoC for its consideration.

6. Much was argued by Mr. Kirpal, learned Senior Advocate for the applicant/petitioner, placing reliance on decision by the Supreme Court in the case of **Subodh Kumar Singh Rathour v. The Chief Executive Officer**³ that the CoC should accept a Resolution Plan that is bringing or infusing more funds into the project. It was urged that respondent No.2 despite being a government entity is not according

¹ Committee of Creditors

² Successful Resolution Applicant



consent to the bidding of the petitioner, which is financially more viable. *Per contra*, it was argued by Mr. Jayant Mehta, learned Senior Advocate for the respondent No.2, that once the CoC have approved the Resolution Plan, there is no specific provision to enable it to review the same or have a relook at the proposal to take a different view. Learned senior counsel for the respondent has urged that the present review petition is akin to starting a second inning on the same issues that were canvassed last time.

7. In view of the peculiar facts and circumstances, suffice to provide that if the applicant/ petitioner is so advised and it chooses to make a renewed or better offer, it is at liberty to do so. Likewise, it could only be provided that so long as the Resolution Plan is not considered and approved by the NCLT⁴, the applicant/petitioner may make a fresh offer or a renewed offer which, if permitted, may be considered in accordance with law. No further issues arise in the present review petition.

8. The present review petition is disposed of accordingly.

DHARMESH SHARMA, J.

OCTOBER 04, 2024/sm

³ 2024 SCC OnLine SC 1682

⁴ National Company Law Tribunal