



2024:DHC:9226



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 27.11.2024

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O.M.P.(I) (COMM.) 405/2024

CENTURY ALUMINUM COMPANY LIMITED

.....Petitioner

Through: Mr. Anirban Bhattacharya, Adv.
(through v/c), Mr. Apoorv Agarwal,
Ms. Divya Verma and Ms. Suvangana
Agarwal, Advs.

versus

RELIGARE FINVEST LIMITED

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)IA No.46266/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

O.M.P.(I) (COMM.) 405/2024

3. The present petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred as '*the A&C Act*') has been filed by the petitioner seeking that the respondent be restrained from initiating or continuing any coercive action against the petitioner *inter alia* in respect of the Loan Facility Agreement and Supplementary Agreement dated 14.09.2015 (as entered into between the petitioner and the respondent).
4. The aforesaid prayer has been sought by the petitioner in the context of the fact that the respondent has filed an application under Section 7 of the



Insolvency and Bankruptcy Code, 2016 (IBC) on 23.06.2023 which was registered as CP (IB) No. 142/KB/2023 before the NCLT, Kolkata Bench.

5. In the said proceedings, an application under Section 8 of the A&C was came to be filed by the petitioner which was dismissed by NCLT on 10.07.2024.

6. The petitioner challenged the said order before the NCLAT which *vide* its order dated 29.10.2024 upheld the decision of the NCLT.

7. By the present proceedings, the petitioner essentially seeks to interdict the pending proceedings under Section 7 of the IBC.

8. Section 238 of the IBC provides as under: -

*“238. Provisions of this Code to override other laws.
The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”*

9. Section 63 of the IBC also states as under: -

*“Section 63: Civil court not to have jurisdiction.
No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code. Civil court not to have jurisdiction.”*

10. It is well settled that IBC is a complete code in itself and thus the proceedings under Section 9 of the A&C Act or in any civil court cannot be resorted to interdict with the said proceedings. This view has been reiterated by the Supreme Court in **TATA Consultancy Services Limited vs Vishal Ghisulal Jain**, (2022) 2SCC 503 and **Indus Biotech (P) Ltd. vs Kotak India Venture (Offshore) Fund**, (2021) 6 SCC 436.



2024:DHC:9226



11. In the circumstances, this Court does not find any merit in the present petition, the same is consequently dismissed.

SACHIN DATTA, J

NOVEMBER 27, 2024/uk