

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 188 of 2017**

**IN THE MATTER OF :**

**JEKPL Private Limited**

**...Appellant**

**Versus**

**Export Import Bank of India**

**...Respondent**

**Present: For Appellant: Mr. Nesar Ahmad, Mr. Mukesh Mohan,  
Mr. Ahsan Ahmad and Mr. Hitesh Joshi.**

**For Respondent: Mr. Rajeev Mehra, Senior Advocate  
with Mr. Ashish Rana, Advocate.**

**O R D E R**

**18.09.2017** — This appeal has been preferred by ‘Corporate Debtor’- JEKPL Private Limited through the Resolution Professional against part of the order dated 22<sup>nd</sup> August, 2017 passed by Adjudicating Authority (National Company Law Tribunal), Allahabad Bench, Allahabad in Company Petition No. (IB) 24/ALD/2017, Company Application Nos. 72 and 159 of 2017, which reads as follows: -

*“Shri Biswajit Dubey, for the petitioner Axis Bank, Advocate, Shri Shambhu Chopra for the R.P. JEKPL. It is brought to our notice that in a subsequent development, the R.P. Shri Mukesh Mohan reconsidered the Axis Bank’s representation and accepted its claim and status of a Secured Creditor in the committee of Creditors.*

*Thus, the grievance of the Axis Bank stands to be redressed by this subsequent decision of the learned R.P. Thus, the present application C.A. No. 72/2017 has now become infructuous in view of the communication dated 9.8.2017 received from the learned R.P. Hence, the CA is accordingly disposed off.*

*Senior Advocate, Sri Anurag Khanna along with Gunjan Jadwani, Advocate appeared for the Exim Bank. Advocate Sri Shambhu Chopra, represents the JEKPL. A copy of the present application be served to Shri Chopra on behalf of the R.P. Shri Mukesh Mohan. He is at liberty to offer his comments on action impugned in the present application and may file reply by 30<sup>th</sup> August, 2017 by serving an advance copy thereof to the applicant's counsel.*

*Meanwhile, the applicant in CA provisionally permitted to continue and participate in the COC meetings as a Member of the Committee of Creditors. However, this would be subject to outcome of the present petition.*

*The matter be listed on 30<sup>th</sup> august, 2017."*

2. When this Appellate Tribunal enquired as to how the 'Corporate Debtor' will be affected, pursuant to impugned order, it was submitted that the Insolvency Resolution Professional has opposed the continuity of 'Exim Bank' as one of the creditor.

3. Having heard learned counsel for the 'Corporate Debtor' and Mr. Rajeev Mehra, Senior Advocate appearing on behalf of the respondent, while we are of the view that appeal at the instance of 'Corporate Debtor' is not maintainable, but make it clear that the Resolution Professional has right to oppose induction of a third party as a creditor. However, in view of the fact that the Exim Bank has been provisionally permitted to continue as a member of the Committee of Creditors and final order is yet to be passed by the Adjudicating Authority, Allahabad Bench and time has been granted to the contesting party to file rejoinder, we are not expressing any view at this stage. After hearing the parties, if the Adjudicating Authority allows Exim Bank to continue as Member of the Committee of Creditors, it will be open to the Resolution professional to challenge the final order before this Appellate Tribunal.

4. It is expected that the Adjudicating Authority will decide the question of continuity of 'Exim Bank' as a member of the Committee of Creditors either way and will not continue with interim arrangement for days together. An early decision be taken on production of copy of this order.

5. The appeal stands disposed of with aforesaid observation. However, in the facts and circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

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

(Balvinder Singh)  
Member(Technical)

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