

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT) 99 of 2018

IN THE MATTER OF:

Reliance Infratel Limited & Ors.

...Appellants

Vs

**HSBC Daisy Investments (Mauritius)
Limited & Ors.**

....Respondents

Present:

For Appellants: Ms. Shelly Bhasin, Mr. Ankur Saigal, and Mr. Shubham Kulshreshta, Advocates

For Respondents: Mr. Vikram Nankani, Senior Advocate, with Mr. Sujjain Talwar, Mr. Shailesh Poria, Ms. Mukta Dutta, Mr. Sanyam Saxena, and Mr. Rohan Roy, Advocates

With

Company Appeal(AT) 120 of 2018

IN THE MATTER OF:

State Bank of India

...Appellant

Vs

**HSBC Daisy Investments (Mauritius)
Limited and Ors.**

....Respondents

Present:

For Appellant: Mr. Tushar Mehta, ASG, Mr. Sanjay Kapur and Ms. Megh Karnwal, Advocates.

For Respondents: Mr. Vikram Nankani, Senior Advocate, with Mr. Sujjain Talwar, Mr. Shailesh Poria, Ms. Mukta Dutta, Mr. Sanyam Saxena, and Mr. Rohan Roy, Advocates

ORDER

29.05.2018 When the matter was taken up, learned Counsel appearing on behalf Reliance Infratel Limited & Ors. produced a letter dated 29.05.2018 which reads as follows:

“29.5.2018

To,

1. *HSBC Daisy Investments (Mauritius) Limited*
2. *Drawbridge Towers Limited*
3. *Galleon Technology Offshore Limited*
4. *Galleon Special Opportunities Master Fund, SPC, Limited*
Galleon Crossover Segregated Portfolio,
5. *Galleon Special Opportunities Master Fund, SPC, Limited*
Galleon Asia Crossover Segregated Portfolio,
6. *IIC Pond View R Tower Limited,*
7. *IIC Lispenard R Tower Limited*
8. *Investment Partners B(Mauritius) Limited,*
9. *NSR PE Mauritius LLC/Revendell PE LLC, and*
10. *Quantum (M) Limited*

Re.: *Company Appeal (AT) No. 99 of 2018*

Reliance Infratel Ltd. & Ors.

Versus

HSBC Daisy Investments (Mauritius) Ltd. & Ors.

Dear Sir,

The Appellants i.e., Reliance Infratel Ltd., Reliance Communications Infrastructure Ltd. and Reliance Communications Ltd. in the aforesaid Company Appeal will execute the enclosed Consent Terms immediately

after the insolvency exit date (as referred to in the attached consent terms).

Sd/-

*(Punit Garg)
Director/ Shareholder
Reliance Communications Ltd.”*

The proposed consent term has also been produced which reads as follows:

*“National Company Law Appellate Tribunal
New Delhi
Company Appeal (AT) No. 99 of 2018
Between
Reliance Infratel Limited & Ors.
And
HSBC Daisy Investments (Mauritius) Ltd. & Ors.*

CONSENT TERMS

These consent terms are executed by the parties set out herein below and include their successors and assigns:

- 1. Reliance Infratel Limited,*
- 2. Reliance Communications Infrastructure Limited, and*
- 3. Reliance Communications Limited*
*.... Hereinafter collectively referred to as “**Appellants**”*
- 1. HSBC Daisy Investments (Mauritius) Limited*
- 2. Drawbridge Towers Limited*
- 3. Galleon Technology Offshore Limited*
- 4. Galleon Special Opportunities Master Fund, SPC, Limited
Galleon Crossover Segregated Portfolio,*
- 5. Galleon Special Opportunities Master Fund, SPC, Limited
Galleon Asia Crossover Segregated Portfolio,*
- 6. IIC Pond View R Tower Limited,*
- 7. IIC Lispenard R Tower Limited*
- 8. Investment Partners B(Mauritius) Limited,*
- 9. NSR PE Mauritius LLC/Revendell PE LLC, and*

10. Quantum (M) Limited

..... hereinafter collectively referred to as “**Respondents**”

Appellants and Respondents are hereinafter collectively referred to as “**Parties**” and individually as “**Party**”.

1. The Respondents are minority shareholders (holding 4.26% shares) in Appellant No. 1 Company. Being aggrieved by various acts of the majority shareholders (Appellant Nos. 2 and 3), the Respondents had filed a Company Petition No. 7 of 2016 against inter alia the Appellants alleging oppression and mis management, which is pending before the NCLT, Mumbai Bench.
2. The parties have now agreed to put an end to the ongoing disputes and in view thereof have entered into the present Consent Terms to be effective upon the Appellants exiting the Insolvency Resolution process initiated pursuant to order dated 15 May 2018 passed by the Mumbai Bench of NCLT in petition nos. CP(IB)1385(MB)/2017, CP(IB) 1386(MB)/2017 and CP(IB) 1387(MB)/2017 filed by Ericsson inter alia against Appellant Nos. 1 and 3 under the Insolvency and Bankruptcy Code, 2016 (“Insolvency exit date”).
3. It is agreed, declared and ordered:
 - a. The Appellants agree and undertake that they shall jointly and/or severally pay a sum of INR 230 Crore to the Respondents in the proportion as set out in Annexure A hereto within a period of 180 days from the Insolvency exit date.
 - b. In order to secure the payment of INR 230 crore, Reliance Communications Limited agrees and undertakes to provide an unconditional and irrevocable Bank Guarantee in favor of the Respondents issued by a scheduled commercial bank

with an 'AAA' rating issued by CRISIL or ICRA. The Bank Guarantee shall be issued and handed over to the Respondents within 15 banking days from the date of the Insolvency exit date.

4. *In view of the present Consent Terms, and in consideration of the Appellants undertaking to pay the amounts as agreed hereunder, the Petition No. 7 of 2016 pending before the NCLT, Mumbai Bench shall be disposed of as withdrawn upon the Insolvency exit date. All orders including the Order dated 12 March 2018 passed by the NCLT, Mumbai Bench shall stand vacated upon the Insolvency exit date.*
5. *Contempt Application No. 148 of 2018 in Company Petition No. 7 of 2016 shall also stand disposed of upon the Insolvency exit date. The Respondents agree and undertake to withdraw the Special Leave Petition (Civil) No. 9462 of 2018 pending before the Hon'ble Supreme Court of India within 15 days of the Insolvency exit date.*
6. *All parties withdraw all allegations against each other.*
7. *No order as to costs.*

Dated this _____ day of May 2018

*For Reliance Infratel Limited
(Appellant No. 1)*

*For Reliance Communications
Infrastructure Limited (Appellant No. 2)*

*For Reliance Communications Limited
(Appellant No. 3)*

For Agarwal law Associates

(Advocate for the Appellants)

For (1) HSBC Daisy Investments (Mauritius) Limited

(2) Drawbridge Towers Limited

(3) Galleon Technology Offshore Limited

*(4) Galleon Special Opportunities Master Fund, SPC, Limited
Galleon Crossover Segregated Portfolio*

*(5) Galleon Special Opportunities Master Fund, SPC, Limited
Galleon Asia Crossover*

(6) IIC Pond View R Tower Limited

(7) IIC Lispenard R Tower Limited

(8) Investment Partners B(Mauritius) Limited

(9) Revendell PE LLC

(10) Quantum (M) Limited

(Respondent Nos. 1 to 10)

*Mr. Robert Pavrey
(Authorised Representative)*

Advocates for Respondent Nos. 1 to 10

ANNEXURE A

Proportion of each Respondent

<i>Respon- dent No.</i>	<i>Name</i>	<i>Percentage</i>
<i>1.</i>	<i>HSBC Daisy Investments (Mauritius) Limited</i>	<i>27.826</i>
<i>2.</i>	<i>Drawbridge Towers Limited</i>	<i>17.391</i>
<i>3.</i>	<i>Galleon Technology Offshore Limited</i>	<i>8.696</i>

4.	<i>Galleon Special Opportunities Master Fund, SPC, Ltd Galleon Crossover Segregated Portfolio</i>	7.609
5.	<i>Galleon Special Opportunities Master Fund, SPC, Limited Galleon Asia Crossover segregated portfolio</i>	5.217
6.	<i>IIC Pond View R Tower Limited</i>	4.348
7.	<i>IIC Lispenard R Tower Limited,</i>	4.348
8.	<i>Investment Partners (B) Mauritius Limited</i>	8.696
9.	<i>Revendell PE LLC/NSR Mauritius PE LLC</i>	7.174
10.	<i>Quantum (M) Limited</i>	8.696
11.	<i>Total</i>	100

“

Learned Counsel for the Appellants submits that the ‘consent terms’ would be signed by the parties immediately after the ‘Insolvency exit date’, as referred to in the ‘consent terms’.

Learned Senior Counsel appearing on behalf of HSBC Daisy Investments (Mauritius) Limited & Ors. submits that they agree with the ‘consent terms’ which will be signed.

Mr. Tushar Mehta, learned Senior Counsel appearing on behalf of State Bank of India (Appellant in analogous matters) submits that in view of ‘consent terms’ between the Appellants and Respondents of the Company appeal (AT) No. 99 of 2018, the State Bank of India and ‘Joint Lender Forum’ will await the outcome of Insolvency and proposed ‘consent terms’.

In view of the aforesaid developments, learned Counsels of the parties sought for and allowed to withdraw the Appeal, without going into the merit, with liberty to proceed in terms with the 'consent terms' after 'Insolvency exit date' if permissible.

Both the appeals stand disposed of with the aforesaid observations.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/gc