

**ICSI Institute of Insolvency Professionals**

**(Disciplinary Committee)**

**ICSI IIP/DC/03/2019**

**6<sup>th</sup> February, 2019**

**ORDER**

**(Under Part II of Disciplinary Policy read with Clause 24(1)(a) of IBBI(Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016)**

**1. Background**

1.1 The Disciplinary Committee of ICSI IIP, vide its Order dated 28<sup>th</sup> August, 2018 (copy annexed), had sought the complete records of the Petition filed by EARC before the NCLT on which the orders dated 15.05.2017 and 02.08.2017 were pronounced:

*“In light of the above, the Disciplinary Committee specifically directs the Directorate to seek the complete records of the Petition filed by EARC before the NCLT on which the orders dated 15.05.2017 and 02.08.2017 were pronounced. The record to be submitted by EARC should include the copy of the original plaint, the Response of the RP and other Respondents as well as the rejoinder of the Complainant. These records are to be placed before the Disciplinary committee within four (4) weeks from today to help ascertain if there is any requirement of this Committee, to further proceed on the Complaint or not.”*

**2. Observations**

2.1 In view of the above, Edelweiss Asset Reconstruction Company Limited (EARC) in its reply dated 1<sup>st</sup> October, 2018 stated that EARC has appealed against the orders passed by NCLT, Hyderabad bench in Appeal Nos. 169 of 2017, 170 of 2017, 171 of 2017, 171 of 2017, 172 of 2017 and 173 of 2017



*elf*  
26/2/2019

before the National Company Appellate Tribunal (NCLAT) and the decision of the same is pending. EARC further stated that they shall revert with the NCLAT judgement and necessary details.

2.2 The Hon'ble National Company Appellate Tribunal (NCLAT), vide its order dated 14th December 2018 dismissed the appeals filed by EARC against Mrs. Mamta Binani & Ors. The Appellate Authority held that "MFL" becoming a related party by virtue of assignment from a related party the same was frivolous and unsubstantiated. MFL does not fall within any of the definitions of related party as mentioned from 5(24)(a) to 5(24)(m) and the three assignment agreements executed between SCL and MFL were duly registered on payment of fine for delay in registration. Further on the basis of its observations and findings, it was held:

*"73. In view of the aforesaid findings and in absence of any merit, we dismiss these appeals. No cost."*


### **3. Conclusion**

3.1 The DC observed that the main issues of the present complaint placed before it has already been adjudicated by the NCLT and thereafter by the NCLAT in its order dated 14<sup>th</sup> December 2018 and there is nothing on record in the said NCLAT order against the Resolution Professional.

The basic grounds of the complaint have already been agitated before two judicial forums i.e. Hon'ble NCLT, Hyderabad Bench and the NCLAT. In such circumstances, it would be impermissible for a quasi-judicial proceeding to permit reagitation of the same issues on which a judicial forum has already pronounced an order.

3.2 In light of the above, the DC sees no reason to pursue the matter and the matter stands closed. Therefore the complaint stands dismissed with no cost imposed.

  
Mr. Nalin Kohli  
Chairperson

  
CS (Dr.) S. P. Narang  
Member  
28/2/2019